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SUPREME COURT OF THE UNITED STATES.

No. 184.

ANDREW ERWIN, APPELLANT,

vs.

WILLIAM S. PARHAM, JAMES DICK, AND HENRY R. W. HILL.

APPEAL FROM THE CIRCUIT COURT, UNITED STATES, FOR THE DISTRICT OF LOUISIANA.

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Gideon, Printer.

UNITED STATES CIRCUIT COURT,
Fifth circuit and district of Louisiana.

ANDREW ERWIN
vs.
W. S. PARHAM et al. } No. 1579.

Pleas and proceedings before the honorable circuit court, fifth circuit, and district of Louisiana, at a circuit court of the United States, in and for the fifth circuit and district aforesaid, being the December term of said court, held at the city of New Orleans, in the district aforesaid, on the fifth day of February, A. D. 1848.

Be it remembered, that heretofore, to wit, on the 26th day of February, A. D. 1847, came Andrew Erwin, by his attorney, Robert Mott, esq., and filed the following bill of complaint in the clerk's office of said court; which is in these words and figures, to wit:

In chancery.

To the judges of the circuit court of the United States, of the 5th circuit, district of Louisiana.

Andrew Erwin, of the city of Nashville, in the State of Tennessee, and a citizen of said State, brings this his bill of complaint against William S. Parham, of the parish of Madison, in the State of Louisiana, and a citizen of said State, and James Dick and Henry R. W. Hill, of the city of New Orleans, and State of Louisiana, and citizens of said State, under the name, style, and firm of Dick & Hill.

And thereupon, your orator complains and says, that one William M. Beal, at that time and now a resident of the city of New Orleans, and a citizen of the State of Louisiana, heretofore, to wit, at a term of the United States circuit court, held in and for the southern district of Mississippi, in the year of our Lord one thousand eight hundred and forty-two, being the May term of said court of that year, before the honorable John McKinley, presiding judge, by the consideration and judgment of said court, recovered against James M. Wall, at that time a resident of the State of Mississippi, and a citizen of said State, the sum of two thousand three hundred and sixty-five dollars and thirteen cents, for damages, besides costs of suit. That a writ of fieri facias on execution was duly issued from said court upon said judgment, and delivered to the marshal of the said district, where said court was held, and where the said James M. Wall then resided and had his domicil; and said writ was afterwards in due form of law returned by the said marshal, with his return of "nulla bona" thereon endorsed, by which was meant and intended by the said marshal, that the said James M. Wall had no goods nor chattels, lands nor tenements, within the district of said marshal, whereof he could make the sum of money so ad-

judicated to the said William M. Beal, and named in said writ, or any part thereof, as will more fully appear by the record of the proceedings in said suit of William M. Beal against the said James M. Wall, and the said writ of fieri facias on execution, with the return of the marshal thereon, on file in the office of the clerk of the United States circuit court, in and for the southern district of Mississippi, or a duly authenticated copy or transcript thereof on file with this your orator's bill of complaint, and which he prays may be made a part thereof, reference being thereunto had.

That afterwards, to wit, on or about the twentieth day of November, one thousand eight hundred and forty-five, his said judgment being in full force and effect unpaid and unsatisfied, the said Wm. M. Beal filed his petition in due form of law, in the ninth district court of the State of Louisiana, held in and for the parish of Madison, which was a court of competent jurisdiction for that purpose, setting forth and stating at large the proceedings in the recovery of his said judgment in the said circuit court of the United States, held in and for the southern district of Mississippi aforementioned, and praying that the said judgment might be made executory in the State of Louisiana, according to the law of said State in such case made and provided, and that the executory process of said State, and said court of the ninth district, be issued therefor in his behalf, against the property, real and personal, rights and credits, of the said James M. Wall, in said State of Louisiana, and that the same be seized and sold, in due course of law, to pay and satisfy the said judgment, and all costs, &c. And such proceedings were thereupon had whereby the executory process of said State and said court, commonly called an order of seizure and sale, was granted by said court of the ninth district, unto said William M. Beal. Whereupon, in pursuance of such order of seizure and sale, on or about the nineteenth day of January, one thousand eight hundred and forty-six, a writ of fieri facias or execution was duly issued to the sheriff of the parish of Madison, commanding him to seize all and singular the property, moveable or immoveable, rights and credit, of the said James M. Wall, within his parish, and sell the same according to law, in order to pay and satisfy the said William M. Beal the sum of two thousand four hundred and three dollars and forty-six cents, and six dollars cost of transcript, the amount of his aforesaid judgment. That on or about the twenty-fourth day of January, one thousand eight hundred and forty-six, the said sheriff of the parish of Madison, as your orator avers, being unable to find any property, moveable or immoveable, or slaves within his parish or bailiwick, belonging to the said James M. Wall, whereof he could make, or cause to be made, the amount of said judgment, or any part thereof, as in and by the said writ of fieri facias he was commanded, by virtue thereof levied upon and seized all the right, title, and interest of the said James M. Wall, in and to thirteen certain promissory notes, each and all of them bearing date on the sixteenth day of January, one thousand eight hundred and thirty-nine, and each for the sum of twenty thousand three hundred and sixty-nine

dollars and twenty-three cents, payable and negotiable at the Citizens' Bank, in the city of New Orleans, payable respectively on the first day of January, one thousand eight hundred and forty two, and upon each succeeding first day of January, until and including the first day of January, one thousand eight hundred and fifty-four, each and all of them signed and executed by the said William S. Parham, to and in favor of, and delivered to, the said James M. Wall, and paraphed ne varietur by A. J. Lowry, esq., notary public, in and for the parish of Madison, duly commissioned and sworn, in order to identify the said notes, and each of them, with an act of sale and mortgage passed before said Lowry, on the sixteenth day of November, one thousand eight hundred and thirty-nine, between the said William S. Parham as vendee, and the said James M. Wall as vendor; by which act the payment of the said thirteen promissory notes bore a mortgage and privilege, upon certain property, immoveable and moveable, in said act of sale particularly described, together with all and singular the mortgage, liens, and privileges by said act created, or which, by the operation and effect of the law, subsisted to and in favor of said James M. Wall; and the said sheriff did advertise and sell the same according to law as hereinafter more particularly set forth, to pay and satisfy the said judgment, with interest and cost, in favor of said William M. Beal against said James M. Wall.

That on the first Saturday of May, one thousand eight hundred and forty-six, the said sheriff of the parish of Madison, after having carefully and strictly observed and complied with and performed all the solemnities and formalities required by the law and the statute in such case made and provided, as your [orator] is informed and believes, and therefore charges the fact is, did expose for sale at the court-house door, in the town of Richmond, in the said parish of Madison, at public auction, to the highest bidder, two of the said promissory notes, executed by the said William S. Parham, to and in favor of the said James M. Wall, bearing date the sixteenth day of November, one thousand eight hundred and thirty-nine, as aforesaid, that is to say, the one of the said notes becoming due and payable on the first day of January, one thousand eight hundred and forty-six; and the other becoming due and payable on the first day of January, one thousand eight hundred and forty-seven; and your orator and one John W. Nixon, of the city of New York, and a citizer of the State of New York, being represented at such sale by their agents and attorneys, that is to say, your orator being represented by J. J. Amonette; and the said J. W. Nixon by Robert Garland, both residents of the said parish of Madison.

Your orator and said John W. Nixon, by their said agents and attorneys, became and were conjointly the purchasers of the said two promissory notes, and all and singular the rights, mortgages, equities, liens, and privileges appertaining or accessary to said promissory notes, and each of them, at and for the sum of three hundred dollars, that being the last and highest sum bid at such sale, and thereupon the said sheriff of the parish of Madison adjudicated and conveyed by his act

and deed, in due form of law, unto your orator and said John W. Nixon, the said two promissory notes, and each of them, and all and singular the said rights against said William S. Parham, mortgages, equities, liens, and privileges upon the property so charged with them, by the terms, tenor, and effect of the said act of sale before mentioned by and between the said James M. Wall and the said William S. Parham, on the sixteenth day of November, one thousand eight hundred and thirty-nine, as will more fully and at large appear by the record of the proceedings in the suit of William M. Beal against said James M. Wall, in the ninth district court of the State of Louisiana, held in and for the parish of Madison, in the office of the clerk of said court, or to a duly authenticated copy or transcript thereof, and of said execution and the return of the sheriff thereon, filed with this your orator's bill, and which he prays may be made part hereof, marked exhibit 1, act of adjudication, and to the deed of George W. Tarkington, the said sheriff of the parish of Madison, duly recorded in said parish in the proper office for that purpose, and now in the possession of your orator, reference being thereunto had.

Your orator submits to this honorable court, and charges, that by the purchase aforesaid by your orator and said John M. Nixon, your orator and said Nixon became legally possessed of all and singular the mortgages, equities, liens and privileges accessary or appertaining in any wise to said two promissory notes, upon all and singular the property, immoveable and moveable, charged therewith, and personally against the said William S. Parham, in all respects as fully and completely as the same were at the emanation and delivery of said notes granted, reserved, and confirmed to, and subsisted in favor of, the said James M. Wall, and had and possessed all and singular the right, power, and authority which the said James M. Wall, as aforesaid, at any time had or possessed, to enforce the said mortgages, equities, liens, and privileges, and personal rights, and each and every of them.

Your orator further shows unto your honor that on the same day herein before mentioned, that is to say, on the first Saturday of May, in the year one thousand eight hundred and forty-six, at the court-house door, in the town of Richmond, in the parish of Madison aforesaid, the said sheriff having seized, by virtue of the execution aforesaid, and after having, as your orator is informed and believes, and avers, observed and strictly performed all the solemnities and formalities required by law in such cases, did expose for sale the remaining eleven of the said thirteen promissory notes, executed by the said William S. Parham to the said James M. Wall, bearing date, each and all of them, on the sixteenth day of November, one thousand eight hundred and thirty-nine, and executed and delivered in the manner and for the purpose hereinbefore set forth, together with all and singular the mortgages, privileges, liens, and equities accessary or appertaining to said eleven promissory notes, and all and singular the personal rights against the said William S. Parham, which, originally, at the time of said seizure, in any manner subsisted, and in favor of said James M. Wall; and your orator being

represented at said sale by the said J. J. Amonett, became the purchaser of said eleven promissory notes, and all and singular the indebtedness and liability of said William S. Parham, indicated thereby, and all and singular the mortgages, equities, liens, and privileges, accessary, or in anywise appertaining, to said eleven promissory notes, and each of them, at and for the sum of three hundred dollars, that being the highest and last sum bid at said sale; and the said eleven promissory notes, and each and every of them, together with all and singular the mortgages, equities, liens, and privileges, accessary, or in anywise appertaining thereto, and all the indebtedness and personal liability of said William S. Parham by reason thereof; that is to say, the first of said eleven promissory notes becoming due and payable on the first day of January, 1842; the second the first day of January, 1843; the third the first day of January, 1844; the fourth the first day of January, 1845; the fifth the first day of January, 1846; the sixth the first day of January, 1849; the seventh the first day of January, 1850; the eighth the first day of January, 1851; the ninth the first day of January, 1852; the tenth the first day of January, 1853; and the eleventh the first day of January, 1854. As each and all of said notes are paraphed ne varietur by A. J. Lowry, notary public, and mentioned and specified in the said act of sale by and between the said James M. Wall and William S. Parham, on the sixteenth day of November, one thousand eight hundred and thirty-nine, adjudicated and conveyed by the said sheriff to your orator, on the fifth day of May, one thousand eight hundred and forty-six, as in and by the act of adjudication and deed of said sheriff of that date to your orator, filed for record in the office designated by law for that purpose, in the said parish of Madison, now in the possession of your orator, and ready to be produced in this honorable court, will more fully and at large appear, and to which your orator prays leave to refer for greater certainty.

And your orator further shows unto your honors, that he is informed, and verily believes, and therefore charges, that at the time of the said seizure by the sheriff of the parish of Madison aforesaid, the said James M. Wall had possession or control of all and singular the said thirteen promissory notes, and was invested with all and singular the mortgages, equities, and liens, and privileges, accessary or appertaining to said notes, and each of them, as fully and perfectly in all respects as originally he possessed, and was invested with at the time of the execution of said notes, by the terms, tenor, and effect of the aforesaid act, by and between the said James M. Wall and the said W. S. Parham, on the sixteenth day of November, 1839.

Your orator, therefore, submits to this honorable court, and charges that, by the purchase aforesaid, your orator became lawfully possessed of all and singular the indebtedness and liability of the said William S. Parham, by reason of the said eleven promissory notes, and all and singular the mortgages, equities, liens, and privileges, accessory or appertaining thereto, and all the right, title, claim, or interest of the said James M. Wall in and to the same, and became vested with all the

right, power, and authority, which at any and at all times, had been vested in said James M. Wall. as fully and completely as the said James S. Wall was at any time invested with, to use and enforce all and singular the rights, mortgages, equities, liens, and privileges, accessary or appertaining to said promissory notes, as well those arising from the operation and effect of the law, as those expressly and particularly stipulated and reserved by the terms, tenor, and effect of the aforementioned act, of, by, and between, the said James M. Wall and William S. Parham, and your orator is now possessed lawfully, and in good faith, of all said rights so acquired by said purchase.

And your orator further shows unto your honors, that the said James M. Wall and William S. Parham, and each of them, had due legal notice of all the proceedings of the said sheriff of the parish of Madison, by virtue of the said execution in the suit of William M. Beal against said James M. Wall, and of the said purchase by your orator and said John W. Nixon conjointly, and the purchase by your orator solely, as will appear by reference to the return of said sheriff on file in the office of the clerk of said ninth district court in and for the parish of Madison, or to a transcript thereof on file, with this your orator's bill, and which he prays may be made a part hereof.

Your orator further shows unto your honor, that he is informed, through communications to his solicitor in New Orleans, and he believes such information to be true, that within a few weeks past the said John W. Nixon has sold, transferred, assigned, disposed of, or parted with, in some way or manner unknown to your orator, to some person or persons unknown to your orator, all and singular the right, title, and interest in and to the said two promissory notes made and executed by the said William S. Parham to the said James M. Wall, becoming due on the first day of January, one thousand eight hundred and forty-six, and the first day of January, one thousand eight hundred and forty-seven, together with all the mortgages, equities, liens, and privileges, accessary to, or appertaining thereto, and the indebtedness and liability of the said William S. Parham, by reason of said promissory notes, which he, the said John W. Nixon, had in the manner aforesaid lawfully acquired by his said purchase, conjointly with your orator, in manner hereinbefore particularly set forth: but your orator is not sufficiently informed, and therefore cannot state with certainty, the consideration paid to the said John W. Nixon for such transfer, assignment, or disposition, nor the circumstances under which it was made, nor the nature and terms thereof, nor the person or persons from whom such consideration or inducement proceeded, or by whom paid, or in what manner. But your orator submits to this honorable court, that no transfer, assignment, sale, disposition, or any act whatsoever, by the said John W. Nixon, respecting his interests in and to said promissory notes, and their accessary obligations, acquired conjointly with your orator in manner aforesaid, can in any way or manner injure or prejudice, or affect the rights of your orator hereinbefore set forth. Your orator charges, that with respect to said Nixon your orator is lawfully possessed of, and entitled to claim and hold, (and does so claim,) one-

half of the sum or amount indicated by the said two promissory notes, or that may be realized therefrom or thereby, or by the mortgages, equities, liens, and privileges, and personal rights subsisting thereby, or accessary or appertaining thereto. And your orator further shows unto your honors, that he is informed and believes, and so charges the fact is, that the said James M. Wall, on or about the sixteenth day of November, one thousand eight and hundred thirty-nine, was seized and possessed, in his own right, of two large and valuable plantations, and one hundred and thirty valuable negro slaves, and a large number or quantity of stock, utensils, and implements thereon, for the use and proper working and cultivation of said plantations; and being so seized and possessed, he, the said James M. Wall, on the said sixteenth day of November, one thousand eight hundred and thirty-nine, by public act sold and conveyed the same to the said William S. Parham for the consideration as expressed in the said act of two hundred and ninety-nine thousand nine hundred and ninety-nine dollars and ninety-nine cents; and that a part of said consideration was to be paid in the promissory notes of said William S. Parham, thirteen in number, bearing date on the day of said sale, payable at the Citizen's Bank in the city of New Orleans, on the first day of January, 1842, and each successive first day of January thereafter, until and including the first day of January, 1854, each for the sum of twenty thousand three hundred and sixty-nine dollars and twenty-three cents, and bearing a mortgage and vendor's privilege upon all and singular the said plantations, slaves, utensils, and implements, as specified and reserved in said act of sale in favor of said James M. Wall; all of which will more fully and at large appear by said public act, recorded in the office of the recorder of mortgages in and for the said parish of Madison, in book A, pages 44, 45, and 46, on the second day of January, 1840, or by a duly authenticated copy thereof, filed with this your orator's bill, and which he prays may be made a part hereof, marked schedule A, reference being thereunto had.

And your orator further shows unto your honors, and so he charges the fact is, that the two promissory notes so as aforesaid purchased by your orator and said John M. Nixon, were two of the said thirteen notes above described and mentioned in said act of sale as the notes due respectively on the first days of January, 1846 and 1847.

Your orator further shows unto your honors, and so charges the fact is, that he, said James M. Wall, had actual notice, and all persons claiming under him, title or interest in and to the said two promissory notes herein before mentioned, or either of them, had legal and constructive notice of all and singular the proceedings in the suit of the said William M. Beal, and by virtue of the execution aforesaid, and of the rights which your orator and said John W. Nixon acquired as herein before particularly set forth.

Your orator further shows unto your honors, and so charges the fact is, that the said sheriff of said parish of Madison, by virtue of the execution aforesaid levied on and seized the said rights and equities,

mortgages and privileges, in favor of said Wall, and appertaining to said two promissory notes, on the twenty-fourth day of January, one thousand eight hundred and forty-six, as appears by the return of said sheriff, to which reference has been already prayed, of which the said James M. Wall, and all persons holding under him, or deriving interest or rights from him, had notice; yet the said James M. Wall, well knowing the rights of your orator, and said John M. Nixon pretending to be largely indebted to the said James Dick and Henry R. W. Hill, to wit, in the sum of thirty-five thousand nine hundred and seventy-nine dollars and fifty-three cents, on the thirty-first day of January, one thousand eight hundred and forty-six, executed and delivered his promissory note to said Dick and Hill for that sum, payable on the first day of April, one thousand eight hundred and forty six, with interest at the rate of eight per cent. per annum; and for the purpose of securing to said Dick and Hill the payment of his said promissory note, the said James M. Wall, by act of pledge, passed on the said thirty-first day of January, 1846, before H. B. Cenas, a notary public commissioned and sworn, presiding in the said city of New Orleans, pledged the two promissory notes made by the said Parham, and falling due on the first day of January, 1845, and the first day of January, 1846, together with all the mortgages, equities, liens, and privileges, accessary or appertaining to said notes, or either of them.

And your orator for greater certainty prays leave to refer to the said act of pledge, or to a duly certified copy thereof filed herewith. Your orator further shows unto your honors that he has good reason to believe, and does believe, and so charges, that the said Dick & Hill became possessed of said two promissory notes, by means and in pursuance of a corrupt, fraudulent, and iniquitous combination and conspiracy to and with the said James M. Wall, to cheat, defraud, and injure the creditors of said James M. Wall, and to cheat and to defraud your orator and said John M. Nixon especially, and to prevent them from obtaining their just rights and equities in the premises set forth; and your orator further charges, that whatsoever the rights of said Dick & Hill may be in and to said two promissory notes, due on the first day of January, 1845 and 1846, if any they have, (which your orator expressly denies,) the rights and equities of your orator and said John M. Nixon were, and your orator's rights and equities are, superior and prior in point of time, and consequently the rights and equities of said Dick & Hill must succumb and be postponed to your orator.

Your orator further charges that the mortgages, liens, and privileges which originally belonged and were accessary to, or appertained to, said two promissory notes, and each of them, are still in full force and effect, as respects the rights and equities of your orator thereto and therein, against the said property, real and personal, so conveyed by said Wall to said Parham, on the sixteenth day of November, one thousand eight hundred and thirty-nine, and every part and parcel thereof, and against the said Parham personally, and that your orator and said John M. Nixon were so jointly possessed entire, and your orator still is justly

and lawfully possessed, of the one undivided half thereof; and he, as he is advised by his counsel, and verily believes, is justly entitled to the aid of this honorable court to enforce the same in the manner prescribed by law, and according to the usage and practice of this court in like cases.

And your orator further shows unto your honors, that he is informed and believes, and so charges, that there are no other claims, equities, liens, or mortgages upon said property so conveyed by said Wall to said Parham, or any portion thereof, save those mentioned in said act of conveyance from said Wall to said Parham, on the said sixteenth day of November, 1839.

Your orator further shows unto your honors that he has been informed and believes such information to be true, that within a few weeks last past the said James Dick & Henry R. W. Hill have become possessed of the remaining eleven of the said promissory notes, executed by the said William S. Parham to said James M. Wall, bearing date the sixteenth day of November, one thousand eight hundred and thirty-nine, and falling due and payable respectively on the first days of January, 1842, 1843, 1844, 1847, 1848, 1849, 1850, 1851, 1852, 1853, and 1854; and they claim, or pretend to claim, and to have, some interest or right in and to the whole of said notes, or some of them, or some part or portion of them, and to have the right to use and enforce the same and all the rights, mortgages, equities, liens, and privileges, accessary or appertaining to said notes and each of them. But your orator is not particularly informed, and therefore cannot state, by what means, or from or through whom, the said Dick & Hill became possessed of said eleven promissory notes, or either of them, nor what is the nature and extent of their interest, or the interest of either of them, in and to said promissory notes or either of them, nor the consideration paid for said interest, nor to whom paid. But your orator has good reason to believe, and does believe, and so charges, that the said Dick & Hill acquired possession of said eleven promissory notes, and all and singular the rights and equities which they claim and pretend to possession, and to said promissory notes, by, through, and in pursuance of a corrupt and fraudulent combination and conspiracy entered into by and between the said James M. Wall and the said James Dick & Henry R. W. Hill, in order to hinder and delay, cheat and defraud, your orator and the creditors of said James M. Wall, and that said James Dick & Henry R. W. Hill have acquired no good, legal, or equitable right, title, or interest, in or to the said eleven promissory notes, or either of them, or any part or portion of them; and that if it should appear to this honorable court that the said Dick & Hill, or either of them, have any good, legal, or equitable right, title, or interest in or to the said eleven promissory notes, or either of them, or any part or portion thereof, the same is or are junior in point of time, and must succumb and be postponed to those of your orator in and to said promissory notes, or either of them, acquired by your orator, by his said purchase, in manner herein before set forth.

Your orator further shows unto your honors, that he is informed and believes that the said Dick and Hill have within a short time past released, acquitted, and discharged the said William S. Parham of and from all and every liability, personally to the said James M. Wall, or any other person or persons holding under or deriving rights through said James M. Wall, (as far as it was in their power so to acquit and discharge him,) by reason of the said thirteen promissory notes, or either of them, executed by the said W. S. Parham, to and in favor of said M. Wall; and your orator avers that he has good reason to believe, and does believe, that such release, acquittance, and discharge was made under and in pursuance of an iniquitous, fraudulent, and corrupt combination and conspiracy, to cheat and defraud, wrong and injure, the creditors of said James M. Wall, but whether said agreement or understanding to release and discharge the said William S. Parham, is in writing, your orator is uninformed and cannot now state; but your orator charges that such acquittance and discharge of said Parham can in no wise affect your orator's rights and equities in the premises against said Wm. S. Parham.

Your orator further shows unto your honors that he is informed, and believes, and so charges, that the said W. S. Parham is, and will be, wholly unable to pay to your orator his undivided half of the amount of the said two promissory notes, or the amount of the said eleven promissory notes, or any considerable part thereof, unless the property so purchased by him of the said James M. Wall, or some part thereof, be charged with the payment thereof, as was originally provided and intended by said act of sale, and as of right it ought so to be charged. And your orator further shows unto your honors, that he is informed and believes, and so charges, the fact is, that if said Wall is indebted to said Dick and Hill, or either of them, in any manner, or for any amount, such indebtedness was contracted and incurred in the usual course of business of said Dick and Hill, as commission merchants, in the usual acceptation of the term, for advances to or in behalf of said Wall, upon the crops of cotton produced upon said plantation, which said Dick and Hill were to receive, sell, and receive from the proceeds thereof their ——— customary commissions therefor, and the amount of such advances; and that said Dicks and Hill have already received, or have the control of, and will receive, such crops, more than sufficient to reimburse them for such advances to said Wall.

Your orator further shows unto your honors that he has good reason to believe, and does believe, that said Dick and Hill have taken possession of said thirteen promissory notes, for the purpose of acquiring possession of said property, so charged with the payment thereof, on some portion of said property, that they may hold the same beyond the reach of lawful creditors of said Wall, and hinder and delay them in the collection of their just debts, and to hinder, delay, and wholly defeat your orator in enforcing his rights aforesaid, in pursuance of a fraudulent and corrupt combination and conspiracy with the said James M. Wall.

Your orator further shows unto your honors that he is informed and believes, and so charges the fact is, that the said James Dick and Henry R. W. Hill, being so possessed as aforesaid, of the said thirteen promissory notes, executed by said Wm. S. Parham, to and in favor of said James M. Wall, or some one or more of them, by virtue of the mortgages, equities, liens, and privileges appertaining to said notes, and each of them, which they, or one of them, pretended to have been clothed with the right to use and enforce, caused the said property, all and singular, so charged with said notes, mortgages, equities, liens and privileges, by the aforesaid act of sale and mortgage by and between the said James M. Wall and Wm. S. Parham, on the sixteenth day of November, one thousand eight hundred and thirty-nine, to be levied upon and seized by the sheriff of the parish of Madison, and the said property was sold on the second day of January last past, at public auction, and at such sale was bid off by the said Dicks and Hill, or in their behalf, for the sum of fifty thousand dollars, as your orator is informed and verily believes; but whether said property, or any part thereof, has been adjudicated and conveyed by said sheriff to said Dick and Hill, or either of them, your orator is not now particularly informed, and cannot state; and your orator is not sufficiently informed and cannot state with certainty, by virtue of or upon and for what particular note or notes of the aforesaid thirteen promissory notes the said property was seized and sold; but your orator believes that they were the two notes purchased as herein before particularly set forth by your orator and said John M. Nixon, that is to say, the two of said promissory notes falling due and payable on the first day of January, one thousand eight hundred and forty-six and one thousand eight hundred and forty-seven.

But your orator avers that from information he has received, and which he verily believes to be true, he has sufficient reason to believe, and does believe, that the said sale was wholly unnecessary under any lawful pretence, or for any lawful purpose whatsoever, and is illegal, fraudulent, and void as to your orator, and that the said sale was made by the procurement and at the sole instigation of the said James M. Wall, for the sole purpose of placing the said property beyond the reach of your orator and creditors of said James M. Wall, generally, and that the said Dick & Hill, nor either of them, have or has any lawful, equitable, or bona fide estate, title, or interest in or to the said property, or any part thereof; but that the said Dick & Hill are merely the holders of said property, and every part and parcel thereof, in order to protect the same for the use and benefit of the said James M. Wall against his creditors, and the just right and equities of your orators, and to hinder, delay, perplex, cheat, and defraud your orator.

And your orator further shows unto your honors, and charges the fact is, that amongst other matters and things connected with the sale of the said property by the sheriff of the parish of Madison, as before stated, the circumstances attending it were such as to prevent the sale being just and equitable, even should it appear that the requisites of the law had been

fully complied with; that amongst other things it was understood by the persons attending such sale that the *the* right of said Dick & Hill to the mortgages and privileges appertaining to the said promissory notes, upon which said sale was made, and their right to the possession and control of said notes, now in controversy in this honorable court, and that the purchaser at such sale would purchase it at his own risk, and take nothing by his purchase.

Your orator, therefore, submits to this honorable court, that if it should be made to appear to this honorable court that all the solemnities and formalities prescribed by law in such like cases had been fully and strictly observed and performed in regard to said sale, which your orator expressly denies, that the said sale ought not of right to affect the rights and equities of your orator in the premises stated, nor to be interposed as any obstacle or hindrance to your orator; and that as to any such obstacle or hindrance the pretended estate, title, or interest acquired by said Dick & Hill, or either of them, in or to said property, or any part thereof, at such sale, is utterly void and of no force or effect.

And your orator further shows unto your honors, that he is informed and verily believes, and so charges, that the sum of fifty thousand dollars, so pretended to be paid by said Dick & Hill, and bid at said sale, is less than one third of the real and just value of the said property so purchased or pretended to have been purchased by said Dick & Hill.

And your orator further shows, that he has good reason to believe, and does believe, that the said Dick & Hill have never paid said sum of fifty thousand dollars, nor any part thereof to the said sheriff, or the residue of said sum, after discharging all claims and demands which, at the date of such sale, the said Dick & Hill lawfully or equitably claimed, or could of right claim, to have and to hold against said James M. Wall, and which were, or could have been, at any time legally or equitably charged or chargeable, upon said property, or any part thereof.

And your orator submits to this honorable court, that the said Dick & Hill, if it should be made to appear that they had any just right to any part of said sum, had no right to retain such residue or surplus in their hands, under any legal or equitable claim or right, for the reason, as your orator alleges, that the said Dick & Hill had, at no time prior to said sale, acquired any just right or equity, mortgage, lien, or privilege upon the property thus sold, beyond and exceeding the said sum of thirty-five thousand nine hundred and seventy-nine dollars and seventy-nine cents, with the lawful interest thereon, being the amount of the aforesaid note made by said James M. Wall to and in favor of said Dicks & Hill, bearing date the thirty first day of January, one thousand eight hundred and forty-six, and for the securing the payment of which note the said James M. Wall had pledged the said two promissory notes, made by said William S. Parham, by the said act passed before H. B. Cenas, notary public, in the manner stated hereinbefore, and that any other indebtedness of said James M. Wall to said Dick & Hill, than as last above mentioned, arose and was incurred in

the usual and ordinary course of business of said Dick & Hill, as hereinbefore charged, and was merely a personal claim, demand, or charge subsisting against said James M. Wall, and could in no way or manner be or become a mortgage, lien, privilege, or charge upon said property sold as aforesaid, nor any part thereof.

And your orator further shows unto your honors, that he is informed and believes, and so charges, that on the first day of August, 1842, the said Wm. S. Parham, by public act, conveyed to Mrs. Elizabeth Jane Parham, the mother of said Wm. S. Parham, and James M. Wall, all and singular the property, real and personal, which was conveyed by said Wall to said Parham on the 16th day of November, 1839, for and upon the consideration, amongst others, that the said Elizabeth Jane Parham should pay off and discharge all and singular the said thirteen promissory notes, originally made by said Parham to, and in favor of, said Wall, as mentioned in the said act of conveyance, and set forth at large in this bill of complaint; but your orator charges that said conveyance is fraudulent and void, as to any impediment or hindrance it might have been intended to interpose to the creditors of said Wall or Parham, or to your orator's said mortgages, rights, and equities; that the said Elizabeth Jane Parham, at the time of said conveyance to her, was aged and infirm, and without the means of paying for said property, except such means as might be derived from the property itself, and was wholly incapable of managing such property. That said Elizabeth Jane Parham departed this life on the day of , 1844, and said James M. Wall, and William S. Parham, and Michael Wall, are her heirs at law, but your orator is not informed, and cannot state, whether or not said Elizabeth Jane Parham left her last will and testament, but he is informed and believes that no said will or testament has ever been probated.

Your orator prays leave to refer to the said conveyance from Wm. S. Parham to Elizabeth Jane Parham, recorded in said parish of Madison, in book A, pages 372, 373, 374, of mortgages, 1st August, 1842, or to a duly authenticated copy thereof, for greater certainty.

Your orator further shows unto your honors, that he is informed and verily believes, and so charges the fact is, that the said plantation, slaves, stocks, utensils, and implements conveyed by said Wall to said Parham, on the sixteenth day of November, one thousand eight hundred and thirty-nine, are now inadequate security for the payment of the amount of said thirteen promissory notes made by said Parham, and bearing mortgages and privileges upon said property, according to the tenor and effect and intent of the said act, by and between said James M. Wall and Wm. S. Parham, conveying said property to said Parham, unless the entire revenues, issues, and profits of said property shall be justly and faithfully applied to the payment of said notes. That although it should appear to this honorable court that, at the date of the sale thereof to said Parham, the said property was worth the sum agreed to be paid therefor; that since that time the said property, with all property of the like nature and description, has depreciated in price

in ordinary private sales, and that said property, on a sale thereof, at public auction, unless the same should be sold upon a reasonable credit, would not produce, as your orator verily believes, any sum approximating its real and just value, but would involve great sacrifices of the interests of all concerned.

Your orator further shows unto your honors, that he is informed and verily believes, that the revenues, issues, and profits of said property are from twenty thousand dollars to thirty thousand dollars per year, ordinarily, and that some years the said property has or may be made to yield and produce more than the last named sum, under proper care and management.

Your orator further shows unto your honors, that he is informed, and verily believes, that the said James M. Wall, has ever since the said conveyance of said property to said Elizabeth J. Parham, on the first day of August, one thousand eight hundred and forty-two, in fact and in truth had and exercised the sole and entire management, direction, and control of said property, and every part and parcel thereof, and the revenues, issues, and profits thereof, and has appropriated the same to his own purposes. That said Wall has during several years since said sale resided upon one of said plantations until some time in the month of February or March, one thousand eight hundred and forty-six, when, as your orator is informed and believes, James M. Wall removed to the city of Vicksburg, in the State of Mississippi, where he now resides, and pretends to have his domicil; but your orator has good reason to believe, and does believe, and so charges, that said James M. Wall is still, and so considers himself to be, and will be held in fact and in law to be, a citizen of the State of Louisiana, and that he has temporarily gone out of the State of Louisiana in order to avoid the process of this honorable court at the suit of your orator; that said James M. Wall has at all times intended, and does still intend, to return to Louisiana as soon as he shall have wholly defeated your orator, if he may be able to do so, in the prosecution of this his just demands, by placing his property beyond the reach of your orator, through the aid and interposition of this honorable court.

That said James M. Wall has no property, as your orator is informed and believes, or no very considerable amount, except the said property herein before particularly described, situated in the parish of Madison, over which he has at all times, since the first day of August, 1842, exercised control and acts of ownership.

Notwithstanding, as has been made to appear, the legal title to said property has been in said *and* Elizabeth Jane Parham, that is to say, from the first day of August, one thousand eight hundred and forty-two, at which time said property was conveyed by said William S. Parham to Mrs. Elizabeth Jane Parham, and held by her from that day until the day of her death.

Your orator further shows unto your honors, that he is informed and believes, and so charges, that the said William S. Parham has at all times, since the said sixteenth day of November, one thousand eight

hundred and thirty-nine, resided, and does now reside, with his family upon one of said two plantations, and has derived, and continues to derive, his maintenance and support, and that of his family, from the proceeds of said plantation.

And your orator has been informed, and believes such information to be true, that since the sale of said property, and the pretended purchase thereof by said Dick & Hill, in manner aforesaid set forth, the said William S. Parham has continued to reside on one of said plantations, and will continue so to reside as hitherto he has done.

And your orator further shows unto your honors, that he has good reason to believe, and does believe, and so charges, that the said James M. Wall will continue to exercise the sole management, direction, and control of said property, and the revenues, issues, and profits thereof.

That said James M. Wall has, at all times since the pretended sale of said property to said Elizabeth J. Parham, received his maintenance and support, and the maintenance and support of his family, from the revenues, proceeds, and profits arising from said property, and that he will continue so to do, if permitted to enjoy and exercise the control, direction, and management of said property. And further, that the said James M. Wall will at all times use and enjoy the said property, and every part and parcel thereof, as fully as if the same had never been sold in manner aforesaid. That he is permitted so to do in pursuance of a fraudulent and corrupt combination and conspiracy with the said Dick & Hill to defraud his creditors, and your orator in particular, and to place his property and effects beyond their and your orator's reach, and in the end to defeat your orator altogether in the recovery of his just rights in the premises stated.

Your orator submits to this honorable court, that if it should be made to appear to the satisfaction of this court, that the said sale of said property was made by said sheriff of the parish of Madison, upon and by virtue of the said two promissory notes made by said Parham to said Wall, becoming due and payable respectively on the first day of January, one thousand eight hundred and forty-six, and the first day of January, one thousand eight hundred and forty-seven, and the mortgages and privileges accessary or appertaining thereto, and that the said Dick & Hill had lawfully and in good faith become possessed of one of said two promissory notes for the purposes stated in the said act of pledge passed before H. B. Cenas, notary public, in manner aforesaid stated, and that the said Dick & Hill had the right to claim and use the said note for the purpose of recovering the amount of the said note of said James M. Wall to them as mentioned in said act of pledge, and that the rights and equities, so acquired by said Dick & Hill were superior to your orator's rights and equities, to the extent of the sum mentioned in said act of pledge; all which your orator expressly denies, and that the said sale was good and valid in law and equity, and that the said Dick & Hill, by their said purchase, are entitled to hold said property, and every part and parcel thereof, which your orator denies; then, that the said sum of fifty thousand dollars should be justly applied, pro

rata, upon all the said thirteen promissory notes, bearing mortgages liens, and privileges upon said property, and that in such distribution the proportions of said Dick & Hill in said fifty thousand dollars would be ascertained by the proportion which the sum so pretended to be due and owing to them by said James M. Wall, as stated in the said act of pledge, bears to the whole sum secured to be paid and unpaid, whether due, or to become due, by the tenor and effect of the said thirteen promissory notes, made by said Parham to said Wall, and the act of sale and mortgage by and between said Wall and Parham.

Your orator further shows unto your honors that he is without remedy in the premises at law, and cannot have adequate relief except in a court of equity, where matters of this nature are properly cognizable and relievable; especially as your orator has not the corporal possession of the said promissory notes made by said Parham to said Wall, and purchased by your orator in manner herein before set forth, or either of them, and therefore cannot proceed by the ordinary course of the law to seize and sell the property, real or personal, charged with payment of said notes.

To the end, therefore, that the said defendants may, if they can, show why your orator should not have the relief hereby prayed for, and may, upon their several and respective corporal oaths, and according to their best and utmost of their several and respective knowledge, remembrance, information, and belief, full, true, and perfect answers make to such of the several interrogatories herein after numbered and set forth, as, by the notes herein under written, they are respectively required to answer; that is to say—

Interrogatory 1st. Whether the said James M. Wall was not, on the said sixteenth day of November, one thousand eight hundred and thirty-nine, seized in fee, and possessed in his own right, as owner of two large and valuable plantations, one hundred and thirty-nine valuable negro slaves, and a large amount of stock, utensils, and implements upon said plantations, situated in the parish of Madison, in the State of Louisiana; and whether he did not, on the day above mentioned, sell and convey the same to said William S. Parham, for and in consideration of the sum of two hundred and ninety-nine thousand nine hundred and ninety-nine dollars and ninety-nine cents; and whether a part of said consideration was not to be paid by the promissory notes of said Parham, thirteen in number, for the sum of twenty thousand three hundred and sixty-nine dollars and twenty-three cents each, bearing the same date of said conveyance, and payable to said Wall, at the Citizens' Bank, in the city of New Orleans, respectively, on the first day of January, 1842, and every successive first day of January thereafter, to and including the first day of January, 1854; and whether said notes, and each of them, did not bear a mortgage and vendor's privilege upon all and singular the property, real and personal, so conveyed by said Wall to said Parham. If not, what was the consideration of said notes; and if upon any, what property do

they bear a mortgage or lien? State all particulars relating to the transaction between the said James M. Wall and William S. Parham, on the said sixteenth day of November, 1839, respecting said property.

Interrogatory 2d. Whether the said Dick & Hill, or either of them, have in their possession, or under their control, all or either, how many, and which, of said promissory notes made by said Parham to said Wall; and in what manner, by what means, and upon what terms and considerations, did they obtain possession of them, and when? State particularly.

Interrogatory 3d. Whether the said James M. Wall is, or at any time since the sixteenth day of November, 1839, has been, justly indebted to said Dick & Hill. If yea, to what amount, how, when, and under what particular circumstances, was said indebtedness contracted? If any payments have been made of such indebtedness, what amount, when, and how? State fully and particularly.

Interrogatory 4th. Whether the said Dick & Hill, or either of them, have directed or caused to be seized and sold, by virtue of either of said promissory notes made by said Parham to, and in favor of, said Wall, all or any portion of said property so conveyed by said Wall to said Parham, in the first interrogatory mentioned. If yea, by which of said notes; when were such seizure and sale made, by whom, and what particular portion or parcel of said property, real or personal, or both, have been so seized and sold, and who was or were the purchaser or purchasers? State fully and particularly.

Interrogatory 5th. Whether the said Dick & Hill have or not, for some years past, been the merchants of said James M. Wall and William S. Parham, or either of them; and if yea, for how many years have they received the crops made on the plantations mentioned in the first interrogatory; and what sum of money has been realized or received from the sale of said crops each year, and what disposition has been made of said money so received? State fully and particularly.

Interrogatory 6th. Whether the said Dick & Hill have discharged and acquitted said Wm. S. Parham of and from all liability personally, by reason of the said thirteen notes, or either of them, or any part thereof; if yea, from which of them is he so discharged; and under what pretence, or understanding or agreement; and whether such agreement, if there be any, is in writing? If yea, set it forth at large, and state what was the motive or inducement to such discharge, and from whom such inducement proceeded.

Interrogatory 7th. Whether the said James M. Wall now resides in the city of Vicksburg, in the State of Mississippi; if yea, how long has he resided there, and where was his last domicile before going to Vicksburg to reside?

Interrogatory 8th. Whether the said William S. Parham now resides in the parish of Madison; if yea, in what part and where; whether either of the said plantations, so conveyed to him by said Wall, on the sixteenth day of November, 1839; if yea, how long has he resided thereon?

Interrogatory 9th. Whether the said John M. Nixon has sold, assigned, or transferred, or in any manner disposed of, his interest in the said two promissory notes mentioned in this bill, made by said Parham to said Wall, becoming due and payable the first days of January, 1846 and 1847, so acquired by purchase jointly with complainant, with the mortgages, liens, right, and privileges, appertaining to said notes; if yea, to whom, upon what consideration, and under what circumstances, and when; and who now holds such interest which was so held by said Nixon; what was the motive or inducement, and from whom did it come or proceed to said Nixon? State fully and particularly.

Interrogatory 10th. Whether the said Elizabeth Jane Parham is the mother of said Jas. M. Wall and William S. Parham; when did she die, and who are her heirs at law, and where do they reside; whether she left her last will and testament; if yea, has said will been probated; if not, why not, and who has possession of said will and testament; where did she reside at the time of her death; who now resides upon the said plantation so conveyed to her by said William S. Parham, and each of them, and how long has she, and have they, so resided there respectively; who had, at the time of the death of said Elizabeth Jane Parham, and who has now, the legal title to said plantations and the property therein, and appertaining thereto, so conveyed to her by said William S. Parham, or either of them, and how was such title acquired, and who has had the management and control of said plantations, and the revenues of them, or either of them, since the first day of August, 1842, and who now has such management and control, and what such revenues have amounted to per annum since said first day of August, 1842; and to whom has the money been paid, on what or whose account, or for what purpose? State fully and particularly.

Interrogatory 11. Whether the said Dick & Hill, or either, and which of them, now have or has the possession, custody, or control of said eleven promissory notes, made by said Parham to said Wall, bearing date the sixteenth day of November, one thousand eight hundred and thirty-nine, and becoming due and payable respectively on the first days of January, 1842, 1843, 1844, 1847, 1848, 1849, 1850, 1851, 1852, 1853, and 1854, respectively, and mentioned and described in this bill of complaint; if yea, which of those; how long have they, or either of them, held said note or notes; how did they, or either of them, become possessed of said note or notes; in what manner, when, where, and upon what consideration, or for what purpose; from whom were said note or notes received; and what right or title to, or interest in, said note or notes, do said Dick and Hill, or either of them, now pretend to hold and claim?

Interrogatory 12. Whether the said property conveyed by said James M. Wall to Wm. S. Parham, on the sixteenth day of November, 1839, was sold on the second day of January last past, or at what time, or what portion or parcel of said property was sold by the sheriff of the parish of Madison? If yea, who was the purchaser, or were the purchasers, at said sales; and how much was bid and paid for said property,

and to whom paid, and how was said sum applied, or on what indebtedness; and has the said sheriff adjudicated and conveyed said property? If yea, to whom and when?

State fully and particularly.

Interrogatory 13. Whether the said Dick and Hill at the time of the sale mentioned in the 12th interrogatory, or either of them, claimed to have any just right, title, or interest in or to the two said promissory notes made by said Parham to said Wall, mentioned in this bill of complaint, becoming due and payable on the first days of January, 1846 and 1847, beyond the sum mentioned in the act of pledge made by said Wall to said Dick and Hill, on the thirty-first day of January, 1846, before H. B. Cenas, notary public, being the amount of said Wall's note to them of that date? If yea, what is the nature and extent or amount of their or either of their right, title, or interest; when was it acquired; how and upon what consideration, and under what circumstances?

State particularly.

Interrogatory 14th. Whether the said Dick and Hill, or either of them, have, or has, any claim or demand against said Wall, or said Wm. S. Parham, which is, or can, in any way or manner be legally or equitably, or was, or is, intended to be a lien or charge, mortgage or privilege, upon the said property conveyed by said Wall to said Parham, mentioned in the first interrogatory, or any part thereof? If yea, what is the nature and amount of such claim or demand; when did it accrue or originate, and how and by whom was it created, and who is personally liable therefor?

State particularly and at large.

And your orator further prays that this honorable court, the premises being considered, will order, adjudge, and decree, your orator to be justly, lawfully, and equitably entitled to the possession of the two said promissory notes in said bill of complaint set forth, executed by said William S. Parham to and in favor of said James M. Wall, bearing date the sixteenth day of November, 1839, and becoming due and payable the first day of January, 1846, and the first day of January, 1847, respectively, for the sum of twenty thousand three hundred and sixty-nine dollars and twenty-three cents each, with all the lawful interest accrued and to accrue thereon; and that your orator be further decreed to have the right, power, and authority to enforce all and singular the equities, mortgages, liens, and privileges, appertaining to said notes, and charged upon the said plantations and property situated in the parish of Madison, and conveyed by said James M. Wall to said Wm. S. Parham, on the said sixteenth day of November, 1839, and every part and parcel thereof, as fully, and completely, and effectually as the said James M. Wall originally could do, and was intended, stipulated, reserved, and confirmed, to and in favor of said Wall, in and by the said act of sale aforesaid by and between said Wall and said Parham; and that the said mortgages and privileges appertaining and accessary to said notes may be decreed to stand charged upon said pro-

perty, respectively, according to the provisions of the act of sale between said Wall and said Parham.

And that the said Parham, by the order and decree of this honorable court, may be adjudged to pay to your orator the one half of the said two promissory notes, with the lawful interest which has accrued or may accrue on said notes; and that in the event of his refusal or neglect so to pay to your orator his said proportion, the said property, so charged with the payment of said notes, may, by the decree of this honorable court, be sold, or sufficient thereof to pay to your orator, by one of the masters of this court; and the proceeds of such sale be applied in payment of your orator's just demand.

And that in the event of a sale of said property, or any part or parcel thereof, as above prayed, the said James M. Wall and William S. Parham, and all other persons, corporation, or corporations, holding under them or either of them, or claiming title to said property, or rights, or equities, mortgages, liens, or privileges thereon, or to, or upon, any part or parcel thereof, subsequently to your orator's, may be debarred and foreclosed therefrom; and especially that the said conveyance of said property by said William S. Parham to the said Elizabeth Jane Parham, on the first day of August, 1842, may be set aside and held for naught, as to any impediment, obstacle, or hindrance it might interpose in the way of your orator's rights and equities; and that the said James Dick and Henry R. W. Hill may, by the decree of this honorable court, be adjudged and decreed to have no right, title, or equity in or to said two promissory notes, so executed by said Wall to said Parham, bearing date the said sixteenth day of November, 1839, and maturing and falling due on the first day of January, 1846, and the first day of January, 1847, respectively; nor the mortgages, equities, liens, or privileges belonging or appertaining to the same, or either of them, and that they may be decreed to deliver up the same to your orator, or to account for and pay to him his just proportion thereof, as herein before stated. And that your orator's rights and equities in and to said two promissory notes, and the mortgages, equities, liens, and privileges appertaining thereto, may, by the order and decree of this honorable court, be adjudged and decreed to be wholly unprejudiced and unaffected by any assignment, transfer, or other act of said John W. Nixon respecting them, or the persons holding or claiming rights or equities derived through or from him.

And that your orator may, by the further order and decree of this honorable court, be declared and adjudged to be legally and equitably entitled to the possession of the said eleven other of the said thirteen promissory notes, made and executed by the said Wm. S. Parham to said James M. Wall, bearing date the sixteenth day of November, one thousand eight hundred and thirty-nine, in this your orator's bill particularly described; and that the said James M. Wall, James Dick, and H. R. W. Hill, and each, or either of them, who has possession of said eleven promissory notes, may be adjudged and decreed to deliver up

the same to your orator, together with all and singular the mortgages, equities, liens, and privileges thereunto belonging, or in any wise appertaining or accessary; and that they, and each of them, may, by the further order and decree of this honorable court, be adjudged to have acquired, or to have no right, equity, title, or interest in and to said notes prior or superior to your orator; and that your orator may be further decreed to have and be clothed and vested with the rights, power, and authority to enforce all and singular the equities, mortgages, liens, and privileges, accessary or appertaining to said eleven promissory notes, and which are charged upon the said plantations herein before particularly described, as fully, and completely, and effectually as the said James M. Wall originally possessed, and could enforce by the terms, tenor, and effect of the said act by and between the said James M. Wall and Wm. S. Parham; and that the said mortgages, equities, and privileges may be decreed to stand charged upon said property.

And that the said Wm. S. Parham may be adjudged and decreed to pay to your orator the just and full sum remaining due and unpaid upon the said promissory notes, a part of the said eleven promissory notes which became due and payable, that is to say, on the first day of January, 1842; on the first day of January, 1843; the first day of January, 1844; and the first day of January, 1845, with lawful interest accrued and to accrue on them, respectively; and that in case the said William S. Parham shall neglect or refuse so to pay to your orator the amount so remaining due and unpaid upon the said notes last above mentioned, with the lawful interest thereon, the said property so charged with said notes may, by the decree of this honorable court, be sold, or sufficient thereof to pay your orator the amount so due and unpaid upon said notes, with the costs of this suit, by a matter of this court, and the proceeds of such sale be applied to that purpose.

And that in the event of a sale of the said property as herein prayed, the said James M. Wall and William S. Parham, and each of them, and all persons holding them, or either of them, or claiming any right, equity, title, or interest in or to said property, or any part or parcel thereof, subsequent to your orator's, acquired as aforesaid, may be forever barred and foreclosed therefrom; and that if it shall be made to appear that the said Dick and Hill, or either of them, have or has any right, title, or interest in or to the said two promissory notes, or either of them, so pledged to them in the manner hereinbefore stated, that the proceeds arising from said sale shall be first applied in payment of the amount of the said four promissory notes, so becoming due and payable prior to the said two promissory notes so pledged to said Dick and Hill.

And that the sale of said property herein before mentioned, made by the sheriff of the parish of Madison on the 2d day of January last past, may be decreed to be void, and wholly annulled and set aside; and that the said Dick & Hill acquired no title or right in and to said property, or any part or parcel thereof, by or on account of their purchase at said sale. That an order of reference may be had to a master

of this court to compute the amount due upon the seven of said promissory notes which become due and payable from the first day of January, 1842, to the first day of January, 1847, inclusive, and report the same to this honorable court with all convenient despatch; and that he also ascertain and report the condition of the mortgaged premises, and whether the same can be sold in parcels, without injury to the interests of the parties concerned.

And your orator further prays, that inasmuch as it appears that the said property, so charged therewith, is an inadequate security for the payment of said thirteen promissory notes, a receiver may be appointed by order of this honorable court to take charge of said property, and every part and parcel thereof, and receive and hold the revenues, issues, and profits thereof, pending this suit, or until the further order of this court.

And your orator further prays, that the said William S. Parham, James Dick, and H. R. W. Hill, and each of them, may be enjoined and restrained, by an injunction issuing out of this honorable court, from intermeddling with, or disposing of, said property, conveyed by said Wall to said Parham on the sixteenth day of November, 1839, or removing the same beyond the jurisdiction of this court, and from using or disposing, in any manner, of the revenues, issues, proceeds, and profits of said property, or any part thereof; and that the said Dick & Hill, and each of them, may be further in like manner enjoined and restrained from using or disposing of any or either of the said thirteen promissory notes, so made by said Wm. S. Parham to and in favor of said James M. Wall, and bearing date the sixteenth day of November, one thousand eight hundred and thirty-nine; and from disposing of any of the proceeds of the crops of said plantations now in their hands, or under their control, until the further orders of this honorable court; and that your orator may have such further relief, or may have such other relief, as the nature of his case shall require, and as shall be agreeable to equity:

May it please your honors to grant unto your orator the people's writ of injunction, issuing out of and under the seal of this court, directed to the said Wm. S. Parham, James Dick, and H. R. W. Hill, their counsellors, attorneys, solicitors, and agents, commanding them, and each of them, absolutely to desist and refrain from intermeddling with, or disposing of, the said property, conveyed by said James M. Wall to said Wm. S. Parham, on the sixteenth day of November, one thousand eight hundred and thirty-nine, situated in the said parish of Madison, in the State of Louisiana, or any part or parcel thereof, or removing the same beyond the jurisdiction of this court, and from using or disposing, in any manner, of the revenues, issues, proceeds, and profits of said property, or any part thereof.

And that the said Dick & Hill be commanded that they, and each of them, do absolutely desist and refrain from using or disposing of any or either of the said thirteen promissory notes, made by said Wm. S. Parham to said James M. Wall, bearing date the said sixteenth day

of November, one thousand eight hundred and thirty-nine, and bearing mortgages and privileges upon said property conveyed by said Wall to said Parham, and from disposing of any of the proceeds of the crops of said plantations and property, now in their hands, or under their control, until the further order of this court:

May it please your honors to grant unto your orator the writ of subpœna, issuing out and under the seal of this honorable court, to be directed to the said Wm. S. Parham, James Dick, and H. R. W. Hill, commanding them, and each of them, by a certain day and under a certain penalty therein to be inserted, to be and appear in this honorable court, before the judges thereof, and then and there to answer the premises, and further to stand to and abide such order and decree therein as shall be agreeable to equity and good conscience. And your orator will ever pray, &c.

A. ERWIN.

NOTE.—The said William S. Parham is required to answer the interrogatories numbered 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14.

The said James Dick and H. R. W. Hill, and each of them, *is* required to answer the interrogatories numbered 3, 4, 5, 6, 7, 8, 10, 12, 13, 14.

STATE OF LOUISIANA,
City of New Orleans, ss.

On this 24th day of February, 1847, personally appeared before me Andrew Erwin, complainant in the foregoing bill named, who being by me duly sworn, deposeth and saith, that he has read the foregoing bill subscribed by him, and knows the contents thereof, and that the same is true of his own knowledge, except the matters therein stated to be upon his information and belief, and as to these matters he believes them to be therein truly stated, and said bill to be true.

A. ERWIN.

Sworn to and subscribed before me, this 24th February, A. D. 1847.

F. N. HARALSON, [SEAL.]
Commissioner.

Schedule A, annexed to bill.

STATE OF LOUISIANA, *parish of Madison.*

Be it known that on this sixteenth day of November, in the year of Lord one thousand eight hundred and thirty-nine, before me, Alfred J. Lowry, a notary public, in and for the above named parish and State duly commissioned and sworn, personally came and appeared James M. Wall, a citizen of the county of Hinds, State of Mississippi, who declared and said, that he has this day bargained, sold, and delivered, and by these presents do bargain, sell, and deliver, unto William S. Parham, also a citizen of the county of Hinds, State of Mississippi,

here present, accepting and purchasing for himself, his heirs and assigns, all the following described tracts, pieces, or parcels of land, and the after named one hundred and twenty-nine negroes slaves, to wit:

All that plantation situated on the Walnut bayou, in the parish of Madison, and composed of the southeast quarter, the northwest quarter, and the northeast quarter of section number twenty-nine, the northeast quarter of section number thirty-six, the southwest quarter of section, number twenty-eight, the northwest quarter, the northeast quarter, and southwest quarter, in section number thirty-seven; all of the above described land is in township seventeen, of range thirteen east, in the district of land north of Red river, Louisiana, and known as said Wall's bayou plantation. Also all that tract, parcel, or lots of land, situated on the Mississippi river, and known as the plantation now owned by said Wall, and being composed of the following lots or parcels of land, to wit:

The undivided half of a tract of land formerly belonging to John Millikin, and designated on the plat of surveys of the United States, as lots numbers seventeen and eighteen, of township number seventeen, of range number thirteen east, and lot number one, of township number seventeen, of range number fourteen east, all in the district of lands north of Red river, Louisiana; said undivided half of the above named tracts or lots of land contains two hundred and fifty-eight $\frac{50}{100}$ acres, more or less. Also lot number fourteen, and the half of lot number thirteen, in township number seventeen, of range number thirteen east, in the district of lands north of Red river, Louisiana; the divisional line to be run according to the deed of Horbert Hood to Samuel Lockhart, on file in the office of the parish judge of the parish of Carroll, La. Said tract containing two hundred and forty-six acres, less one acre sold by Honore P. Morancy to James B. Rusk; also, lots number fifteen and sixteen, and lot number four in fractional section number twenty-eight, in township number seventeen, of range number thirteen east, being the same land James M. Wall holds by lease as school lands. All of the above described lots or tracts of land compose the two plantations now owned by James M. Wall, and known as his River and Walnut bayou plantations. Also the following named one hundred and twenty-nine negro slaves now on said plantations:

Anthony, Horace, Big Tom, Jack, Adam, D. Tom, Abram, Big Simon, Ellis, Henry, Y. John, Handy, Daniel, George, Joe, Reuben, Philip, Edmund, P. Sam, Goodwin, Ben, Hartwell, Bull Tom, Emory, Little Jordan, Big Jordan, Silas, General John, Big Jim, Sam Y, Bob, Lucinda and her three children, Betsey and child, Sarah, Mima, Molly and child, Violet, Mason, Barberry, Le Mary, Big Mary, Lilly, Siah, Fanny, Big Mariah and child, Clarissa, Charity, Delsey and two children, Rachel and three children, Amy and three children, Roxana, Ann, Becky and child, Aggy and three children, S. Mariah, Henrietta, Dealy, Rosetta, Polly, Harrietta, Ann, Rivah, Sabra, L. Lucinda, Lilly, Judy and her five children, S. Simon, Jim, Moses,

Ned, Garland, Solomon, Peter La, Tom Parker, Cato, Yel. George, Frank, Tom, K. Lawson, Rufus, David, L. John, Burrell, Manuel, Brister, Big Patsey, Lytha and child, Leah, Aggy, Harriette and child, Amy and child, Fanny and child, Eliza, Hannah, Adeline, L. Sarah, Daniel, Monining, L. Betty, Y. Sarah, Penny, Cely, little George.

To have and to hold unto the said William S. Parham all the above described pieces, parcels, or lots of land, and the above named one hundred and twenty-nine negro slaves, his heirs and assigns, in fee simple forever; and the said vendor hereby further promises, that he and his heirs shall and will forever warrant and defend the property above conveyed against all legal claims and demands whatever; except the lots number fifteen and sixteen, and lot No. four, of fractional section number twenty-eight, township seventeen, range number thirteen east, which is school land, the said Wall only transferring his claim to said lots for the term of years leased, as will appear by reference to said acts on file and record in the office of Alfred J. Lowry, notary public at Millikin's Bend, La. Also, the said James M. Wall sells to said Parham all the stock of horses, mules, oxen, cattle, hogs, together with the corn, fodder, farming utensils, carts, wagons, and every thing belonging or in any way appertaining to said plantations. It is understood that the said James M. Wall only warrants the title to the above named negroes. The consideration of the above sale is as follows: The sum of thirty-five thousand two hundred dollars cash in hand paid, the receipt whereof is hereby acknowledged; also, William S. Parham's thirteen promissory notes, each for the sum of twenty thousand three hundred and sixty-nine dollars $\frac{23}{100}$ in favor of James M. Wall, payable on the first day of January, A. D. 1842, A. D. 1843, A. D. 1844, A. D. 1845, A. D. 1846, A. D. 1847, A. D. 1848, A. D. 1849, A. D. 1850, A. D. 1851, A. D. 1852, A. D. 1853, A. D. 1854. All payable and negotiable at the Citizens' Bank of New Orleans, Louisiana, and by me, notary, endorsed ne varietur to identify them with this act, making in all the sum of two hundred and ninety-nine thousand nine hundred and ninety-nine dollars $\frac{99}{100}$. It is expressly understood by the parties that William S. Parham is to settle all the claims now against the said property, and shall have a credit upon the notes first falling due for whatever amounts he may pay; said Parham to take possession of the above described property on the first day of January next. Now, in order to secure the full and punctual payment of the above named thirteen promissory notes, at the time and manner stipulated, the said William S. Parham hereby specially mortgages and hypothecates in favor of the said James M. Wall, all the above described tracts, lots, or parcels of land as herein conveyed, and the above named one hundred and twenty-nine negro slaves, and the said William S. Parham promises and binds himself not to sell, alienate, mortgage, or encumber any part of the property above described, nor dispose of the same in any manner whatever, until the causes and effects for which this mortgage is granted shall have been fully satisfied, and until a release of this mortgage be given; and if, contrary to the true and intent

meaning of the present clause, the said William S. Parham shall sell, encumber, or mortgage any part of the above described property, or otherwise dispose of the same, all such contracts made in violation of the present clause shall be null and of no effect as regards the said James M. Wall, whose rights and privileges shall not in any manner be weakened or affected by any sales or alienation, mortgage or disposition, made in violation of this clause. The said James M. Wall reserving to himself the rights and privileges, and necessary powers, to the end that, in case of the non-performance of the obligations imposed on the said William S. Parham, the property hereby mortgaged may be at the request of the said James M. Wall, seized and sold by way of confession of judgment, into whomsoever hands the *the* said property or any part thereof may have come, by virtue of any act of disposition or alienation made in violation of this clause, and without the said James M. Wall being obliged to sue in the first instance the said William S. Parham, nor obtain judgment against him. The parties waive the production of a certificate of mortgage on the above described property from the office of the recorder of mortgages for the parish of Madison, Louisiana, and release the notary from any responsibility on account of said certificate not being produced, the said Parham being advised of the mortgages existing on said property. Thus done and passed the day and year first above written, in presence of Thomas A. Applegate and Philip Maher, competent witnesses, who have signed these presents, together with the parties and the notary, after due reading hereof.

(Original signed) James M. Wall, Wm. S. Parham, Thomas A. Applegate, Philip Maher.

[L. S.] A. J. LOWRY,
Notary public.

STATE OF LOUISIANA, *parish of Madison.*

I hereby certify the foregoing instrument to be on record in my office, at Milliken's Bend, Louisiana.

In testimony whereof I have hereunto set my hand and affixed
[L. S.] my seal, this 11th day of December, A. D. 1839. Recorded in book B, pages 5, 6, 7, 8, and 9.

A. J. LOWRY,
Notary public.

STATE OF LOUISIANA, *parish of Madison.*

I certify that the within and foregoing is duly recorded in my office, in record of conventional mortgages and privileges, book A, pages 44, 45, and 46, on this second day of January, A. D. 1840.

Witness my signature and official seal.
[L. S.] RICHARD CHAS. DOWNES,
Parish judge.

STATE OF LOUISIANA, *parish of Madison, parish judge's office.*

I certify that the within and foregoing is a true and correct copy of the original acts, and of the certificates of record thereto.

Witness my signature, and the seal of said office, this tenth day [L. S.] of March, A. D. 1846.

MILES GRANT,
D'y clerk.

Exhibit No. 1.

Referred to in complainant's bill.

WILLIAM M. BEAL
vs.
JAMES M. WALL. } No. 955.

To the honorable the judge of the ninth judicial district court, holding sessions in and for the parish of Madison, Louisiana.

The petition of William M. Beal, residing in the city of New Orleans, respectfully shows, that James M. Wall, residing in said parish of Madison, is justly indebted unto petitioner in the sum of two thousand four hundred and nine $\frac{46}{100}$ dollars, with eight per cent. interest; for this, to wit, that in the circuit court of the United States, in and for the ninth circuit and southern district of Mississippi, held at the town of Jackson, on the second day of June, A. D. 1842, your petitioners recovered a final judgment against said Wall for the sum of two thousand three hundred and sixty-five $\frac{13}{100}$ dollars, and thirty eight $\frac{33}{100}$ dollars cost of suit, with eight per cent. interest thereon; that said judgment was contradictorily rendered against said Wall; all of which will more fully appear by reference to a certified copy of the transcript and proceedings had in said court, hereto annexed, and made a part of this petition. Shows that on the 13th day of July, 1842, a writ of fieri facias was sued out in said suit, and returned nulla bona.

The premises considered, your petitioner prays that the said transcript and judgment hereto annexed be recognised and declared valid; that it be made executory in the State of Louisiana, against the said James M. Wall; and prays that a writ of seizure and sale issue therein against the property, rights, and credits of the said Wall, to pay and satisfy the sum of two thousand four hundred and three $\frac{46}{100}$ dollars, with eight per cent. interest thereon from the second day of June, A. D. 1842, till paid, and six dollars cost of the transcript annexed, and cost of these proceedings; all of which your petitioner prays judgment for against said Wall, and for general relief in the premises.

AMONETTE,
Plaintiff's att'y.

3670.

Transcript.

WM. M. BEAL
vs.
JAMES M. WALL.

Pleas before the honorable John McKinley, presiding judge of the circuit court of the United States, in and for the ninth circuit and southern district of Mississippi, held at the town of Jackson, at the May term in the year of our Lord one thousand eight hundred and forty-two.

Be it remembered, that heretofore, to wit, on the 3d day of September, A. D. 1840, the following writ of summons ad respondendum issued out of the clerk's office of the court aforesaid, in the words and figures, to wit:

UNITED STATES OF AMERICA,
Southern district of Mississippi, ss.

The President of the United States, to the marshal of the southern district of Mississippi, greeting:

We command you without delay to summons James M. Wall, a citizen of the State of Mississippi, that he be and appear at the circuit court of the United States, to be held at the city of Jackson, in and for the southern district of Mississippi, on the first Monday of November next, to answer to William M. Beal, a citizen of the State of Louisiana, of application of trespass in the case, to his damage three thousand dollars, and that he doth file his plea or defence with the clerk of said court on or before the meeting of the same, or judgment will be given against him by default; and have then there this writ.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States, the 3d day of September, A. D.
[L. S.] 1844, and in the 65th year of the independence of the United States.

WM. BURNS, *Clerk*,
By GEO. W. MILLER, *Dep'y Clerk*.

Marshal's return. Executed on the 3d day of September, A. D. 1840, the plaintiff, by his attorneys, Topp and Thompson, filed his declaration herein against the said defendant, in the words and figures following, to wit:

UNITED STATES OF AMERICA,
Southern district of Mississippi.

United States circuit court, ninth judicial circuit, November term in the year 1840. William M. Beal, who is a citizen of the State of Louisiana, plaintiff in the suit, complains of James M. Wall, who is a citizen of the State of Mississippi, residing in the southern district thereof, defendant, summoned, &c., on a plea of trespass on the case upon premises.

For that whereas the said defendant, by the name and signature of James M. Wall, heretofore, to wit, on the 18th day of March, in the year 1840, at Raymond, Miss., to wit, in the southern district of Mississippi, aforesaid, made his certain promissory note in writing, bearing date March 18, 1840. And then and there delivered the said promissory note to the said plaintiff, and there by them and there promised to pay, four months after the date of said promissory note, to the order of the plaintiff, by the name and description of W. M. Beal, at the Canal Bank of New Orleans, negotiable at any bank in the United States, nineteen hundred and ninety-two dollars ninety-six cents, with interest from date till paid, at the rate of ten per cent. per annum, for value received. And the said plaintiff in fact saith, that afterwards, when the said promissory note became due and payable, to wit, on the thirtieth day of July, in the year 1840, at the Canal Bank of New Orleans aforesaid, said note was duly presented to the proper keeper at the banking-house of the New Orleans Canal and Banking Company, in the city of New Orleans, and payment thereof demanded; but neither said defendant, nor any one for him, did or would then and there, or at any time thereafter, pay the said sum of money in said promissory note specified, and said note was then and there duly and legally protested for non-payment; of all which said defendant, afterwards, to wit, on the same day and year last aforesaid, had due notice.

By means whereof said defendant then and there became liable to pay to the plaintiff the said sum of money in said promissory note specified, according to the tenor and effect thereof; and being so liable, he in consideration thereof, afterwards, to wit, on the same day and year last aforesaid, at the southern district of Mississippi aforesaid, undertook and faithfully promised the plaintiff said sum of money in said promissory note specified, well and truly to be paid to the plaintiff when he should be thereunto afterwards required.

Yet the said defendant, not regarding his said promise and undertaking aforesaid, has not as yet paid to the said plaintiff the said sum of money in the said promissory notes specified, or any part thereof, although often requested so to do. But to pay the same, or any part thereof to the plaintiff, he hitherto has failed and refused, and doth fail and refuse so to do, to the damage of the plaintiff three thousand dollars, and therefore he sues, &c.

TOPP & TOMPSON,
Attorneys for plaintiff.

And the said James M. Wall, by attorney, comes and defends the wrong and injury when, &c., and says for plea that the plaintiff his action aforesaid to have and maintain against him ought not, because he says he did not undertake and promise in manner and form as the said plaintiff above in pleading in this behalf hath alleged against him, and of this he puts himself upon the country, &c.

MAYS & CLIFTON,
For defendant.

And the said plaintiff doth the like.

TOPP & TOMPSON,
Attorneys for plaintiff.

And afterwards, to wit, at the said May term of the court aforesaid, to wit, on the second day of June, in the year of our Lord one thousand eight hundred and forty-two, until which time this cause was legally continued, came the parties aforesaid, by their respective attorneys, and a jury being called came, to wit, A. Stillman, J. Kitterell, H. Keating, Donald McNabb, Geo. H. Ish, J. L. McManus, G. W. Clark, J. C. Kline, R. P. Winslow, E. Newman, Lewis Rene, T. Craft, who being empannelled, tried, and sworn to speak the truth concerning the matters within contained, do say upon their oaths, they find for the plaintiff on the issue joined, and assess the damages by reason of the premises at two thousand three hundred and sixty-five dollars and thirteen cents. Therefore it is considered by the court that the said plaintiff recover of the said defendant the sum of two thousand three hundred and sixty-five dollars and thirteen cents, his damages aforesaid, by the jurors in the manner and form aforesaid assessed, also his costs and charges by him about his suit in this behalf expended; and the said defendant in mercy, &c.

And afterwards, to wit, on the 13th day of July, 1842, the following writ of fi. fa. in assumpsit issued in the words and figures following, to wit,

CIRCUIT COURT OF THE UNITED STATES,
Southern district of Mississippi, sct.

The President of the United States, to the marshal of the southern district of Mississippi, greeting:

We command you, that of the *the* goods and chattels, lands and tenements, of James M. Wall, late of your district, you cause to be made the sum of twenty-three hundred and sixty-five dollars and thirteen cents, which William M. Beal, lately in our circuit court for the district aforesaid, hath recovered against him for his damages which he hath sustained by reason of the non-payment of a certain promise and assumption by the said defendant to the said plaintiff lately made, with interest on the said sum, at eight per centum per annum, from the second day of June, 1842, until paid. Also the sum of thirty-eight 33$\frac{1}{3}$-100 dollars, for costs by him about this suit in that behalf expended, whereof the said James M. Wall is convicted as appears to us of record; and that you have the said moneys before the judge of our said court, on the first Monday of November next, to render unto the said plaintiff for his damages and costs aforesaid; and have you then and there this writ.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States, at Jackson, the first Monday of

[L. S.] May, A. D. 1842, and the 66th year of the independence of the United States of America.

Issued the 13th day of July, A. D. 1842.

W. H. BROWN, *Clerk*,
By GEO. W. MILLER, *Deputy Clerk*.

Marshal's return, received July 22d, 1842.

A. MILLER, *Marshal*.
By deputy, J. S. GOOCH.
Nulla bona. ANDERSON MILLER, *Marshal*,
By deputy, J. S. GOOCH.

UNITED STATES OF AMERICA,
Southern district of Mississippi.

Circuit court, U. S.

I, William H. Brown, clerk of said court, do hereby certify, that the foregoing six pages contain a true and complete transcript of the record of the judgment in the case therein named, together with the proceedings thereon, as the same remain of record and on file in my office.

In testimony whereof I have hereunto set my hand and affixed the [L. S.] seal of said court, at Jackson, this 30th day of August, A. D. 1845.

W. H. BROWN, *Clerk*.

UNITED STATES OF AMERICA,
Southern district of Mississippi, sct.

Circuit court, U. S.

I, Samuel J. Gholson, one of the judges of said circuit court, do certify, that William H. Brown, whose name is subscribed to the foregoing certificate, is, and was at the time of signing the same, clerk of said circuit court, and that his attestation is in due form of law.

Given under my hand and seal this 30th day of August, A. D. 1845.

S. J. GHOLSON. [SEAL.]

Order.

WILLIAM M. BEAL
vs.
JAMES M. WALL.

On a transcript and judgment from Mississippi.

By reason of the annexed transcript and judgment, and the law and the evidence being in favor of the plaintiff, and against the defendant, it is ordered that the annexed judgment be made executory in the State of Louisiana.

And it is further ordered and decreed, that the plaintiff, William M. Beal, do recover of the defendant, James M. Wall, the sum of two

thousand four hundred and three $\frac{26}{100}$ dollars, and six dollars, costs of transcript, and cost of these proceedings; and it is further ordered and decreed, that an executory process do issue thereon against the property, rights, and credits of said Wall, and that the same be seized and sold in due course of law to pay and satisfy this judgment, and all costs to be taxed.

Done and signed at chambers, this 20th day of November, 1845.

E. K. WILSON, *Judge,*
7th, presiding in the 9th district.

Endorsed: 955, from circuit court of U. S., to district of Miss., Wm. M. Beal vs. Jas. M. Wall, transcript filed Nov. 26, 1845.

S. LEE, *D'y clerk.*

Notice of judgment.

WILLIAM M. BEAL
vs.
JAMES M. WALL. } No. 955.

State of Louisiana, ninth district court, parish of Madison.

To James M. Wall, residing in the parish aforesaid: Take notice, that on the twentieth day of November, 1845, in said court a final judgment was rendered against you in the above entitled suit in favor of said William M. Beal, by which you are condemned to pay the sum of two thousand four hundred and three dollars and forty-six cents, with interest thereon, at the rate of per centum per annum from the day of 18 , till paid, and cost of suit, and six dollars cost of transcript.

Witness the honorable Thomas Curry, judge of said court, this 16th day of December, A. D. 1845.

[SEAL.]

JOHN A. MASON, *Clerk of said court.*
By S. LEE, *D'y clerk.*

Return.

Received on the 16th of December, A. D. 1845, and served on the same day, same month, and year, by handing a certified copy of this notice of judgment to the defendant, James M. Wall, in person, at Milliken's Bend, in this parish.

J. C. SEALE, *Sheriff,*
By A. J. McCAIN, *Deputy sheriff.*

Endorsed: 955, William M. Beal vs. James M. Wall; notice of judgment filed December 20, 1845.

S. LEE, *D'y clerk.*

Execution.

WILLIAM M. BEAL
vs. } No. 955.
JAMES M. WALL.

State of Louisiana, parish of Madison, ninth district court. The State of Louisiana and said court, to the sheriff of Madison, greeting:

By virtue of an order of seizure and sale granted by the honorable E. K. Wilson, judge of the seventh district court of said State, acting for the ninth district, dated in chambers, the 20th day of November, A. D. 1845.

You are hereby commanded in the name of the State of Louisiana, and said court, that by seizure and the sale of the property, real and personal, rights and credits of said James M. Wall, in the manner prescribed by law, you cause to be made the sum of two thousand four hundred and three dollars and $\frac{46}{100}$ths, and six dollars, cost of transcript; and also the sum of five dollars and ninety-five cents, costs of this suit; as well as the cost of this and a former writ: and how you shall have executed this writ make due return according to law; herein fail not.

Witness the honorable Thomas Curry, judge of said court, with the seal thereof, this 19th day of January, 1846.

JOHN T. MASON, *Clerk*.
By STEPHEN LEE, *D'y clerk*.

Endorsed: 955, ninth district court, parish of Madison.
William M. Beal vs. James M. Wall, debt $2,403 46.
Cost of transcript, $6 00; clerk's costs, $4 20; sheriff's seal, $1 75.
Increase, writ and return, $1 10; alias do. $1 10.
Filed May 13th, 1846.

CHAS. GOODWIN, *D'y clerk*.

Sheriff's return.

Received on the 19th day of January, 1846, and executed on the 24th day of January of the same year, by attaching, in the hands of William S. Parham, all the notes described in the notice of seizure, and by seizing the same as described in the said notice of seizure, by virtue of the within writ; and after having advertised the same for the space of fifteen clear days, the sale to take place on the first Saturday of March, 1846, and on which first Saturday of March, 1846, I proceeded to offer the same for sale for cash, after causing the same to be appraised, and no person present bid for said property two-thirds of the appraisement of the same, no sale was effected. Wherefore I, the sheriff, re-advertised the same upon a credit of twelve months, for the space of thirty clear days, the sale to take place on the first Saturday of May, 1846, on which said first Saturday of May, 1846, I, the said sheriff, proceeded to offer the said property for sale upon a credit of twelve months, at the court-house door in Richmond, La., and J. J. Amonette being

present and acting as agent for Andrew Erwin, and Robert Garland being present and acting as agent for John M. Nixon, bid for the notes described in said notice of seizure, due 1st January, 1846, and 1st January, 1847, the sum of three hundred dollars, which being the last bid or offer made, the same was struck off and adjudicated to the said Erwin & Nixon, at and for the said sum of three hundred dollars; and on the same above described day I, the said sheriff, proceeded to offer the eleven other notes, as described in the notice of seizure annexed hereto and made a part of this return, on the terms and conditions above described, and no person, being present, bid therefor two-thirds of the appraised value of the said property, no sale was effected. Whereupon I, the said sheriff, re-advertised the same, the sale to take place at the town of Richmond aforesaid, on the first Saturday of May, 1846, upon a credit of twelve months, for the space of thirty clear days; I, the said sheriff, proceeded to offer, on the said first Saturday of May, 1846, at the town of Richmond aforesaid, the said property; and James J. Amonette being present, and acting as agent for Andrew Erwin, bid therefor the sum of three hundred dollars, which being the last and highest bid or offer made, I, the said sheriff, struck off and adjudicated the said property to the said Andrew Erwin, at and for the said sum of three hundred dollars; and the said Amonette, acting as counsel for the plaintiff herein, has authorized me, the sheriff, to credit this writ the amount of each of said bids, six hundred dollars.

G. W. TARTINGTON.

RICHMOND, *La.*, *May* 13, 1846.

Notice of seizure and attachment.

State of Louisiana.

WILLIAM M. BEAL
vs. } No. 955.
JAMES M. WALL.

Ninth district court, parish of Madison.

To Mr. James M. Wall, residing in said parish: Please take notice, that I have this day, by virtue of a writ of seizure and sale to me directed, from the ninth district court, parish of Madison, La., in the above styled suit, levied on and taken into my possession all your right and interest in and to the following described property, to wit, all of the indebtedness of William S. Parham to you, as evidenced by thirteen several promissory notes, dated 16th November, A. D. 1839, made by said Parham, each for the sum of twenty thousand three hundred and sixty-nine $\frac{23}{100}$ dollars, in favor of you (said Walls,) the first of which is payable the 1st January, A. D. 1842; the second, the 1st January, A. D. 1843; the third, 1st January, A. D. 1844; the fourth, 1st January, A. D. 1845; the fifth, 1st January, A. D. 1846; the sixth, 1st January, 1847; the seventh, 1st January, A. D. 1848; the eighth, 1st January, A. D. 1849; the ninth, the 1st January, A. D. 1850; the

tenth, 1st January, A. D. 1851; the eleventh, 1st January, A. D. 1852; the twelfth, 1st January, A. D. 1853; the thirteenth, 1st January, A. D. 1854; payable and negotiable at the Citizens' Bank of New Orleans, Louisiana, and paraphed "ne varietur," by A. J. Lowry, esq., notary public, to identify them with an act of sale and mortgage passed before said Lowry on the 16th November, A. D. 1839, between William S. Parham to the said Wall, by which act the payment of the said notes were secured by mortgage on certain property therein described, together with all benefit of mortgage, &c., to pay and satisfy plaintiff's judgment on the above styled suit, the amount of which is two thousand four hundred and seventeen $\frac{61}{100}$ dollars, including interest and cost; and unless the same is paid within three days from the date hereof, I shall proceed to advertise and sell, according to law; and you are further notified to appoint your appraisers of said property, if you see proper so to do, the sale of which will take place at the court-house door, at the town of Richmond, La., on the first Saturday of March, A. D. 1846. Parish of Madison, La., January 24th, 1846.

J. C. SEALE, *Sheriff*.

Endorsed: 955, ninth district court, Wm. Beal *vs.* J. M. Wall; notice of seizure to J. M. Wall, copy.

Sheriff's return.

Served the within notice of seizure on the 24th January, 1846, on the defendant, James M. Wall, by leaving a certified copy of the same at the domicil of said defendant, in Milliken's Bend, parish of Madison, La., with William S. Parham, a free white person over the age of fourteen years, residing at the domicil of said defendant, and by notifying the said Parham in person, at the same time and place of said seizure.

J. C. SEALE, *Sheriff*.

State of Louisiana, ninth district court, parish of Madison.

WILLIAM M. BEALL
vs.
JAMES M. WALL. } 955.

To William S. Parham: Please take notice that I have this day, by virtue of a writ of seizure and sale to me directed from the ninth district court, parish of Madison, La., in the above styled suit, seized and attached in your hands all of the indebtedness due by you to the defendant, James M. Wall, as evidenced by your thirteen several promissory notes, dated 16th November, 1839, in favor of said Wall, each for the sum of twenty thousand three hundred sixty-nine $\frac{28}{100}$ dollars, payable annually, to wit: The first payable, first January, A. D. 1842, A. D. 1843, A. D. 1844, A. D. 1845, A. D. 1846, A. D. 1847, A. D. 1848, A. D. 1849, A. D. 1850, A. D. 1851, A. D. 1852, A. D. 1853,

and A. D. 1854, payable and negotiable at the Citizen's bank of New Orleans, Louisiana, and paraphed ne varietur by A. J. Lowrey, esq., notary public, to identify them with an act of sale and mortgage, passed before said Lowrey, on the 16th November, 1839, by you, (Parham) to said Wall, by which act the payment of the said notes was secured by mortgage on certain property therein described. Now, therefore, you are forbidden from paying any of said notes or debts, due by you to said Wall, in any shape or manner whatever, until the further order of this our said court, if you do it will be at your own peril, and you are instructed to withhold all moneys and property in your hands, subject to said writ, and the payment thereof.

MADISON PARISH, LA., *January 24th*, 1846.

J. C. SEALE, *Sheriff.*

Endorsed: 955, 9th district court, W. M. Beale vs. J. M. Wall. Notice to Wm. S. Parham and Wall; copy filed May 13, 1846.

CHAS. GOODWIN, *D'y clerk.*

Return. Served the within notice of seizure and attachment on William S. Parham, on the 24th January, 1846, in person by handing a copy of the same to said Parham in person, at his domicil in Milliken's Bend, parish of Madison, La.

J. C. SEALE, *Sheriff.*

Minutes.

On the 30th day of April, 1846, the following entry was made in the minutes of the court, page 306:

WILLIAM M. BEALL
vs. } 955.
JAMES M. WALL.

Motion to set aside order of seizure and sale, filed by defendant; motion overruled.

On motion of defendant's counsel, plaintiff's counsel being present, a devolutive appeal is allowed, returnable to the Supreme Court at New Orleans, on the second Monday of January next, and the bond fixed at one hundred dollars.

Motion.

BEAL
vs. } 955.
JAMES M. WALL.

Order of seizure and sale.

The defendant moves to set aside the order of seizure and sale issued herein, on the ground that the record of judgment from Mississippi upon which it issued is not sufficiently attested to warrant the harsh and summary proceedings by executing process.

A. PIERSE.
Attorney for defendant.

Endorsed: 955, Beal vs. Wall, motion to set aside; order filed 30th April, 1846. JOHN T. MASON, *Clerk*.

Transfer.

WM. M. BEAL
vs.
JAMES M. WALL.

U. S. circuit court, 9th circuit and southern district of Mississippi, and

SAME
vs.
SAME. } 955.

9th district court, parish of Madison, State of Louisiana.

I, William M. Beal for the sum of two thousand dollars, to me in hand paid by Andrew Erwin, the receipt whereof I hereby acknowledge, do hereby for the said consideration transfer, assign, and set over, unto the said Andrew Erwin, the balance due on the judgment which I recovered in the United States circuit court, for the 9th circuit and southern district of Mississippi, held at Jackson in said State, on the 24th day of June, 1842, for the sum of two thousand three hundred and sixty-five $\frac{1}{100}$ dollars, and costs of suit.

And in which executory proceedings have since been had in the 9th district court, parish of Madison, Louisiana, hereby subrogating to the said Erwin to all my rights under and thereby, and authorizing him to use all due means for the recovery thereof, the same as if I was pursuing the same remedies myself.

Thus done and passed in the City of New Orleans, this 18th day of July, 1846. As witness my hand and seal, said Erwin to pay all costs, lawyer's fees, and free me from all responsibility should nothing be made from said Wall.

W. M. BEAL. [SEAL.]

Endorsed: 955, W. M. Beal vs. James M. Wall.
Transfer filed, Nov. 5th, 1846.
JOHN T. MASON, *Clerk*.
By CHAS. GOODMAN, *D'y clerk*.

Notice of transfer.

W. M. BEAL
vs.
JAMES M. WALL.

Circuit court of the United States, in and for the ninth circuit and southern district of Mississippi.

To JAMES M. WALL.

SIR: You will please to take notice, that for a valuable consideration, to me in hand paid, on the 18th day of July, in the year of our Lord

one thousand eight hundred and forty-six, by Andrew Erwin, of the State of Tennessee, I have assigned, transferred, and for ever set over, unto the said Andrew Erwin, all my right, title, and interest, in and to a certain judgment by me obtained in the above entitled cause, in the circuit court of the United States, in and for the ninth circuit, and southern district of Mississippi, for the sum of two thousand three hundred and sixty-five $\frac{13}{100}$ dollars, subrogating all my rights, under and by virtue of said judgment against you, to said Andrew Erwin, as fully and effectually as though he were originally plaintiff in said judgment.

W. M. BEAL.

NEW ORLEANS, 14*th October*, 1846.

Return rec'd Nov'r 9th, 1846, and served on the 12th of the same month and year, by leaving a copy of the within notice with Edward Davey, who is above the age of 14 years, at the residence of W. S. Parham, on the Miss. river, and which is the last residence of J. M. Wall in this parish.

G. W. TARKINGTON, *Sh'ff.*
By GOPSON C. BETTIS, *D'y.*

Endorsed: 955. Wm. M. Beale vs. John Wall. Notice of transfer, filed Nov., 1846.
JOHN T. MASON, *Clerk*,
By CHAS. GOODMAN, *D'y C.*

STATE OF LOUISIANA, *parish of Madison.*

Tenth judicial district court.

I, John T. Mason, clerk of the tenth judicial district court, (late ninth judicial district court,) of the State of Louisiana, in and for the parish of Madison, do hereby certify, that the foregoing is a true transcript of the records and proceedings had in this case lately pending in said court, wherein William M. Beal is and was plaintiff, and James M. Wall defendant, No. 955, with all things touching the same, as fully and wholly as the same now exists among the records of my office.

I do further certify, that the foregoing transcript contains a true copy of the execution and sheriff's return; notice of seizure and sheriff's return; also attachment and notice to W. S. Parham and sheriff's return; proceedings had in the foregoing case. Also, that it contains a true copy of the transfer of judgment from said Beal to Andrew Erwin, and notice of said transfer.

In testimony whereof I hereunto set my hand and seal of said [L. S.] court, this the second day of November, A. D. 1846.

JOHN T. MASON, *Clerk.*

STATE OF LOUISIANA, *parish of* [*Madison.*]

Tenth district court.

I, Louis Selby, presiding judge of the tenth judicial district court of the State of Louisiana, in and for the parish of Madison, do certify,

that John T. Mason, who has given the foregoing certificate, and whose name is signed thereto, is and was clerk of said court at the time of signing the same, and that said certificate is in due form of law, and entitled to full faith and credit throughout the United States, and that his signature thereto is genuine.

Given under my hand and seal, this third day of November, A. [L. S.] D. 1846.

LOUIS SELBY,
Judge tenth dis't.

Exhibit No. 2.

STATE OF LOUISIANA,
Parish of Madison.

Be it known and remembered, that I, George W. Tarkington, sheriff of the parish of Madison, and State aforesaid, by virtue of a writ of seizure and sale to me directed from the ninth district court, for the parish of Madison, Louisiana, against the lands and tenements, goods and chattels, rights and credits, of James M. Wall, in the suit of William M. Beal vs. James M. Wall, No. 955, of the said ninth district court, parish of Madison, did seize all the right, title, claim, and interest of the said James M. Wall in and to the following described property, to wit: all of the indebtedness of William S. Parham to and in favor of the said James M. Wall, as evidenced by two several promissory notes, dated parish of Madison, Louisiana, 16th November, 1839, each for the sum of twenty thousand three hundred and sixty-nine and $\frac{23}{100}$ dollars, ($20,369 23,) made by the said William S. Parham to and in favor of the said James M. Wall. The first of said notes is due and payable the first day of January, 1846, the other the first day of January, 1847. Each payable and negotiable at the Citizen's Bank of New Orleans, Louisiana, and paraphed ne varietur by Alfred J. Lowry, esq., notary public, to identify them with an act of sale and mortgage passed before said Lowry on the 16th of November, 1839, between the said William S. Parham and the said James M. Wall, by which act the payment of the said notes was secured by mortgage on certain property therein described; and after having advertised the sale of said notes and indebtedness for the space of fifteen clear days in the manner pointed out by law, by posting up advertisements in three public places in said parish, to wit, at Milliken's Bend, Richmond, and at New Carthage.

I, the said sheriff, did, on the first Saturday of March, 1846, being the 7th day of said month, at the court-house door at Richmond, in said parish, offer at public auction to the highest bidder, for cash, all the right, title, claim, and interest, of the said James M. Wall, (defendant,) in and to the aforesaid mentioned and described notes, indebtness, &c.; and no person bidding therefor two-thirds of the cash valuation of the same, no sale was effected. Wherefore, I, the said sheriff, postponed said sale, and re-advertised the same for the space of thirty

clear days in the manner prescribed by law as hereinbefore set forth, the sale of said notes and indebtedness to take place at Richmond, on the first Saturday of May, 1846, being the second day of said month, for whatever the said notes and indebtedness would bring upon a credit of twelve months, the purchaser being required to furnish bond and security as prescribed by law, to secure the payment of the price of the purchase money; and upon said day, being the 2d day of May, 1846, aforesaid, I, the said sheriff, exposed at public auction to the highest bidder, at Richmond, as aforesaid, and upon the terms and conditions herein last set forth, all the right, title, claim, and interest of the said James M. Wall in and to the aforesaid mentioned and described notes indebtedness; and James J. Amonett, esq., and Robert Garland, esq., being present, and the said Amonett acting as counsel herein, and as the agent and attorney for Andrew Erwin, of the State of Tennessee, and the said Garland acting as the agent and attorney for John M. Nixon, of the State of New York, bid for the aforesaid mentioned notes and indebtedness the sum of three hundred dollars, that being the last and highest bid or offer made, I, the said sheriff, publicly struck off and adjudicated the aforesaid notes and indebtedness, with all the benefits of mortgage, &c., arising therefrom, unto them, the said Andrew Erwin and John M. Nixon, through their said agents and attorneys, at and for the said price of three hundred dollars; and the said Amonett, acting as the counsel for the plaintiff herein, authorized me, the said sheriff, to credit the amount of said bid on the writ of seizure and the sale herein; and I, the said sheriff, by the above authorization, dispensed with a twelvemonths' bond. Wherefore, in virtue of the premises herein set forth, and the law in such cases made and provided, and for and in consideration of the price above set forth and described, I, George W. Tarkington, sheriff as aforesaid, do sell, transfer, and convey, unto them, the said Andrew Erwin and John M. Nixon, all the right, title, claim, and interest of the said James M. Wall, that he had, or could have, at and since the 24th day of January, 1846, in and to the aforesaid mentioned and described notes and indebtedness, with all the benefits of mortgage attached thereto, or arising therefrom, unto them, the said Andrew Erwin and John M. Nixon, their heirs and assigns forever.

In witness whereof I have hereunto set my hand on this the 5th day of May, 1846, in presence of Charles G. Brown, Isaac Casum, who have signed with me, the sheriff.

G. W. TARKINGTON, *Shf.*

Witness—CHARLES G. BROWN,
I. CASNER.

STATE OF LOUISIANA, *parish of Madison,*
Clerk's office, ninth district court.

I hereby certify that the within act is duly recorded in "Sheriff's transfer," book A, pages 223 and 224 and 225, in this office.

Witness my signature and the impress of the seal of said court, this eleventh day of May, in the year of our Lord eighteen hundred and forty-six.

[L. S.]

JOHN T. MASON, *Clerk*,
By CHAS. GOODWIN, *Dep. Clerk*.

Exhibit No. 3.—Referred to in bill.

STATE OF LOUISIANA:

Be it remembered that I, George W. Tarkington, sheriff of the parish of Madison, and State aforesaid, by virtue of a writ of seizure and sale to me directed, from the ninth district court for the parish of Madison, Louisiana, against the lands and tenements, goods and chattels, rights and credits, of James M. Wall, in the suit of William M. Beal vs. James M. Wall, No. 955, of the said ninth district court, parish of Madison, did seize all the right, title, claim, and interest of the defendant, James M. Wall, in and to the following described property, to wit, all of the indebtedness of William S. Parham to and in favor of the said Wall, as evidenced by eleven several promissory notes, dated parish of Madison, Louisiana, 16th November, 1839, each for the sum of twenty thousand three hundred sixty-nine and $\frac{23}{100}$ dollars (20,369.23,) made by the said William S. Parham, to and in favor of the said James M. Wall; the first of said notes is due the first day of January, 1842; the second the first day of January, 1843; the third the first day of January, 1844; the fourth the first day of January, 1845; the fifth the first day of January, 1848; the sixth the first day of January, 1849; the seventh the first day of January, 1850; the eighth the first day of January, 1851; the ninth the first day of January, 1852; the tenth the first day of January, 1853; the eleventh, and last, the first day of January, 1854. Each of which is payable and negotiable at the Citizen's Bank of New Orleans, Louisiana, and paraphed ne varietur, by Alfred J. Lowry, notary public, to identify them with an act of sale and mortgage passed before said Lowry on the 16th November, 1839, between William S. Parham and the said James S. Wall, by which act the payment of said notes was secured by mortgage on certain property therein described. And after having advertised the sale of said notes and indebtedness for the space of fifteen clear days, by posting up advertisements in three public places in said parish, according to law, to wit, at Milliken's Bend, Richmond, and New Carthage, I, the said sheriff, did, on the first Saturday of March, 1846, being the 7th day of said month, at the court-house door at Richmond, in said parish, offer at public auction to the highest bidder, for cash, all the right, title, claim, and interest of the said James M. Wall in and to the aforesaid mentioned and described notes, &c.; and no person bidding therefor two-thirds of the cash valuation of the same, no sale was effected; wherefore I, the said sheriff, postponed said sale, and readvertised the same for the space of thirty clear days, in the manner pointed out by law, as hereinbefore set forth, the sale of said notes and indebtedness, to take place at Richmond, on the first Saturday of May,

1846, being the second day of said month, for whatever they, the said notes, &c., would bring upon a credit of twelve months, the purchaser being required to furnish bond and security as prescribed by law, to secure the payment of the price of the purchase money. And upon said day, being the second day of May, 1846, aforesaid, I, the said sheriff, exposed at public auction to the highest bidder, at Richmond, as aforesaid, and upon the terms and conditions herein last set forth, all the right, title, claim and interest, of the said James M. Wall in and to the aforesaid mentioned and described notes and indebtedness. And James J. Amonette, esq., acting as counsel herein, and as the agent and attorney for Andrew Erwin, of the State of Tennessee, being present, bid for the aforesaid described notes and indebtedness the sum of three hundred dollars, that being the last and highest bid or offer made, I, the said sheriff, publicly struck off and adjudged the aforesaid notes and indebtedness, with all the benefits of mortgage, &c., arising therefrom, unto the said Andrew Erwin, through his said agent and attorney, at and for the said price of three hundred dollars; and the said Amonette, acting as counsel for the plaintiff herein, authorized me, the said sheriff, to credit the amount of said bid, on the writ of seizure and sale herein; and I, the said sheriff, by the above authorization, dispensed with a twelvemonth's bond.

Wherefore, in virtue of the premises herein set forth, and the law in such cases made and provided, and for and in consideration of the price above set forth and described, I, George W. Tarkington, sheriff as aforesaid, do sell, transfer, and convey, unto the said Andrew Erwin, all the right, title, claim, and interest of the said James M. Wall, that he had, or could have, at and since the 24th day of January, 1846, in and to the before mentioned and described notes, indebtedness, &c., with all the benefits of mortgage, &c., arising therefrom; to have and to hold said notes and indebtedness unto him, the said Andrew Erwin, his heirs and assigns forever.

In witness whereof I have hereunto set my hand, on this fifth day of May, 1846, in presence of Sam'l Anderson and J. C. Seale, two competent witnesses, who have signed with me, the said sheriff.

G. W. TARKINGTON, *sheriff*.

J. T. SEALE,
S. ANDERSON.

STATE OF LOUISIANA, *parish of Madison*.

Clerk's office, ninth district court.

I hereby certify that the within act is duly recorded in "sheriff's transfers," book A, pages 221, 222, and 223, in this office.

Witness my signature and the impress of the seal of said court, this ninth day of May, A. D. eighteen hundred and forty-six.

[L. S.]

JOHN T. MASON, *Clerk*,
By CHAS. GOODMAN, *D'y Clerk*.

Exhibit No. 4.

This indenture, made this first day of August, in the year of our Lord one thousand eight hundred and forty-two, between William S. Parham, of the parish of Madison, La., of the one part, and his mother, Elizabeth Jane Parham, of the county of Hines, Miss., of the other part, witnesseth: That for the hereinafter stated consideration, to be paid for him by the said Elizabeth Jane Parham, the said William S. Parham has sold, and does hereby sell and deliver to her, for herself, her heirs, and assigns forever, the following described property, to wit, the two plantations, and all the slaves, stock, implements, utensils, and all the improvements thereon, of every description included, and all the appurtenances thereto belonging, and all the implements and revenues thereon or thereto appertaining, situated in Milliken's Bend, in the said parish of Madison, La., now occupied and cultivated by the said Wm. S. Parham. Land and slaves described, as follows: Southeast quarter, northwest quarter, and northeast quarter, in section 29; northeast quarter in section 36; southwest quarter in section 28; northwest quarter, northeast quarter, and southwest quarter, section 37. All the above described land in township 17, of range 13, east, in the district of land north of Red river. The one half of a tract of land formerly owned by John Milliken, designated in the surveyor's plats as lots No. 17 and 18, of township No. 17, range 13 east, and lot No. 1, township 17, range 14 east, containing in all $258\frac{50}{100}$ acres. And lot number 14, and half of lot No. 13, township 17, range 13 east, containing two hundred and forty-six acres, less one acre sold by H. P. Morancy to James B. Rusk; and also lots No. 15 and 16, and lot No. 4, in fractional section No. 28. T. No. 17, R. 13 E. This latter is school land.

And the said Wm. S. Parham only sells his lease of 50 years, which commenced 5 or 6 years ago, and the following named slaves, to wit, Anthony, Horace, Big Tom, Jack, Adam, D. Tom, Abram, Big Simon, Ellis, Henry, Y. John, Handy, Daniel, George, Joe, Reuben, Philip, Edmond, J. Sam, Goodwin, Ben, Hartwell, Bull Tom, Emory, Little Jordan, Big Jordan, Silas, General John, Big Jim, Sam, Y. Bob, Lucinda and three children, Betsy and child, Sarah, Mima, Molly and child, Violet, Mason, Barbary, L. Mary, B. Mary, Lilly, Leah, Fanny, B. Mariah and child, Clarissa, Charity, Delsey and two children, Rachel and three children, Ary and three children, Roxanna, Ann, Becky and child, Aggy and three children, L. Maria, Henrietta, Deally, Rosetta, Polly, Harriet, Ann, Rinch, Sabra, L. Lucinda, Lilly, Judy and her five children, L. Simon, Jim, Moses, Ned, Garland, Soloman, Peter L., Tom Parker, Cato, Yellow George, Frank, Tom, R. Lawson, Rufus, David, L. John, Burwell, Manuel, Brister, Big Patsy, Lytha and child, Leah, Aggy, Harriet and child, Amy and child, Fanny and child, Eliza, Hannah, Adeline, L. Sarah, Danah, Mourning, L. Betty, Y. Sarah, Jenny, Sealy, L. George, William aged 17, and Jack 15; all on and belonging to the aforesaid two plantations.

The description of the above slaves, except the last two, is taken from an act of sale before Alfred J. Lowry, notary public, from James M. Wall to Wm. S. Parham, of 16th November, 1839. And this sale is intended to and does embrace all their increase since that time; and also the following slaves, also on said plantations: Ben 31 years old, Patrick 26, Anderson 26, Gilpin 26, Rosannah 16, Fanny 24, and her child Anthony, Charles 28, Diannah 21, Milton 15, Aberdeen 20, Shack 20, Calvin 22, Rindah 19, Phil 31, Isaac 31, George 41, Sally 26, Harriet 28, Louisa 41, Jefferson 15, and all their young children.

This sale is made for the following consideration, to wit: The said Wm. S. Parham, as part of the consideration for the foregoing described property, which he purchased of James M. Wall, by act before A. J. Lowry, notary public, on the 16th November, A. D. 1839, gave his thirteen promissory notes, each for twenty thousand three hundred and sixty-nine dollars and $\frac{23}{100}$ (20,369 $\frac{23}{100}$,) payable 1st January, 1842-3-4-5-6-7-8-9, 1850-1-2-3 and 4, at the Citizen's Bank, New Orleans, the payment of which notes are secured by mortgage on the property.

And the said Wm. S. Parham is indebted to W. Ford, jr., in the sum of six thousand nine hundred and eighty-six dollars $\frac{52}{100}$, (6,986 $\frac{52}{100}$,) in three notes, the first for one thousand and fifty-eight dollars $\frac{33}{100}$, dated April 12th, 1841, signed James M. Wall as principal, and Wm. S. Parham as security, payable on or before the 12th November, 1841, to Wm. Ford, jr., or order, at the Union Bank, New Orleans; the second for twenty-eight hundred and thirty-one $\frac{96}{100}$ dollars, dated as first, and signed Wm. S. Parham as principal, and James M. Wall as security, payable 1st January, 1842, and payable as first; the third for three thousand and ninety-six dollars $\frac{23}{100}$, dated and signed as second, payable 1st January, 1843, as the 1st and 2d; said debt is secured by a mortgage on twenty-one slaves, part of those before described, passed before A. J. Lowry, 14th April, 1841.

About eighteen thousand dollars has been paid on the first of the above described thirteen notes, with the exception of which all the aforesaid debts are unpaid; and the said William S. Parham is indebted to various persons in small amounts, for supplies and necessaries for the aforesaid plantations since he has owned them, and for overseers' wages, the amount of which indebtedness cannot be exactly ascertained, but which will not exceed five thousand dollars. Now, the said Elizabeth Jane Parham, as the consideration for the before described property, agrees to pay all the before described debts, as the said Wm. S. Parham is bound to pay them; and for the faithful performance of this obligation she binds herself, her heirs, and assigns, to the said Wm. S. Parham, in the sum of fifty thousand dollars, which she promises to pay to him should he suffer that amount by her not performing her obligation to pay his debts as before stated, or to indemnify him to the extent he may suffer not exceeding that amount, though she expressly disclaims making herself personally bound to the holders of the aforesaid debts. Yet she will make every exertion, both with the means

placed in her hands by this sale and those she already owns, to pay them as they become due; and the said William S. Parham, for this consideration, hereby bargains, sells, and delivers to the said Elizabeth Jane Parham all the above described property, and warrants for himself, his heirs, and assigns, the title of the same to be good to her, and to her heirs and assigns forever, free from all incumbrance, except those above mentioned.

In witness whereof the parties to this instrument sign their names at Milliken's Bend, parish of Madison, La., this 1st day of August, A. D. 1842, in presence of Allen Pierse and Isaac Casner, competent witnesses hereto; (original signed) William S. Parham, Elizabeth J. Parham, A. Peirse, Isaac Casner.

Parish of Madison, State of Louisiana, 1st August, A. D 1842.

Allen Pierse being duly sworn says, that he saw the parties to the foregoing deed of conveyance, Wm. S. Parham and Elizabeth Jane Parham, subscribe their names to the same, for the purposes therein specified, and at the time and placed therein mentioned; and that he saw Isaac Casner, the other subscribing witness thereto, sign the same as witness in the presence of the parties, and of this deponent, who also signed the same as witness, and that each of the witnesses and the parties contracting signed in presence of all the others, and all at the same time and place. A. PIERSE.

Subscribed and sworn before me, this 1st day of August, A. D. 1842.
R. C. DOWNES,
Parish judge.

STATE OF LOUISIANA,
Parish of Madison.

I do hereby certify, that the foregoing is duly recorded in conventional mortgages, book A, pages 372, 373, and 374, on this 1st day of August, 1842.

Witness my signature, and the impress of [my] official seal.
[SEAL.] R. C. DOWNES, *Parish judge.*

STATE OF LOUISIANA,
Parish of Madison, parish judge's office.

I certify that the foregoing is a true and correct copy of the original act, and of the proof and certificate of record thereof.

Witness my signature, and the seal of said office, this eleventh day of March, A. D. 1846.
[SEAL.] MILE GRANT, *D'y clerk.*

Exhibit No. 5.

STATE OF LOUISIANA,
City of New Orleans.

Be it known, that this day, before me, Hilary Breton Cenas, a notary public in and for the city and parish of New Orleans, State of Lou-

isiana, duly commissioned and qualified, personally came and appeared James M. Wall, of the parish of Madison, in this State, who declared that he does, by these presents, acknowledge himself to be justly and truly indebted unto Dick and Hill of this city, merchants, in the full sum of thirty-five thousand nine hundred and seventy-nine dollars and fifty-three cents (35,979 53) lawful current money of the United States, for which he has furnished his promissory note for the like sum, drawn to the order of *of* the firm of Dick & Hill, bearing even date herewith, and made payable at their counting-room, in this city, on the first day of April next, with interest, from and after maturity, at the rate of eight per centum per annum until final payment; which note, after having been duly paraphed by me, notary, to identify it with this act, was delivered to Mr. Hill, one of the members of the firm aforesaid, who hereby acknowledges the receipt thereof.

Now, therefore, in consideration of the premises, and in order to secure the full and punctual payment, at maturity, of the aforesaid promissory note, together with the interest that may eventually accrue thereon, the said James M. Wall moreover declared that he does, by these presents, pledge, transfer, and deliver to and in favor of the said firm of Dick & Hill (composed of James Dick and Henry R. W. Hill) herein represented by the said H. R. W. Hill, here present and accepting, two certain promissory notes for the sum of twenty thousand three hundred and sixty nine dollars and twenty-three cents each, both drawn by William S. Parham to the order of the said James M. Wall, and by him endorsed, dated in the parish of Madison, in this State, on the sixteenth day of November, eighteen hundred and thirty-nine, and made payable, respectively ,at the office of the "Citizen's Bank" in this city, on the first day of January, of the years eighteen hundred and forty-five and eighteen hundred and forty-six, respectively, with interest at the rate of ten per centum per annum, from maturity, until paid; which notes were given by the said drawer thereof in part payment for a certain plantation situate on the Walnut bayou, in the said parish of Madison, and one hundred and twenty-nine slaves thereon, purchased by the said drawer from the said James M. Wall, by an act passed before Alfred J. Lowry, a notary in and for the said parish of Madison, on the said sixteenth day of November, 1839; to secure the payment of which notes the said purchaser granted a special mortgage on the said plantation and slaves, in favor of his said vendor, by a clause in his aforesaid act of purchase; which said special mortgage, to the amount and extent of the aforesaid two promissory notes, is also hereby transferred and assigned to the said Messrs. Dick & Hill, together with all the rights, privileges, actions, and recourses thereunto belonging or in any wise appertaining, without any exception or reservation whatsoever.

Which said two promissory notes were, by the said James M. Wall, delivered in the presence of me, notary, and of the undersigned witnesses, to the said H. R. W. Hill, who, in the name of the said firm, hereby acknowledges the receipt and due possession thereof.

Thus done and passed in my office, at the said city of New Orleans, in the presence of Auguste Commandeur and Michel Aime, jun'r, witnesses, of lawful age, and domiciliated in this city, who hereunto subscribe their names, together with the said parties and me, notary, on this thirty-first day of January, in the year of our Lord one thousand eight hundred and forty-six.

(Original signed) JAMES M. WALL,
H. R. W. HILL,
A. COMMANDEUR,
M'L AIME, Jr.
H. B. CENAS, *Not. Pub.*

I certify the foregoing to be a true copy of the original act on file and of record in my office. In faith whereof I grant these pre-
[L. S.] sents under my signature and the impress of my seal of office, at New Orleans, on the 29th day of October, 1846.

H. B. CENAS, *Not. Pub.*

And afterwards, to wit, on the 25th of February, 1847, the following entry was made on the minutes of said court:

ANDREW ERWIN
vs. } No. 1,579.
WM. S. PARHAM et als.

The defendants, William S. Parham, James Dick, and Henry R. W. Hill, and their solicitors, S. S. Prentiss and Levi Pierce, esq'rs, are hereby notified that the complainant, Andrew Erwin, will move the circuit court of the United States, for the fifth circuit and district of Louisiana, at the court-room, in New Orleans, on Thursday, the 4th day of March, A. D. 1847, at 10 o'clock, a. m., for a writ of injunction, and the appointment of a receiver in this cause, which will be granted said complainant as prayed for in his bill, unless said defendants appear and show cause on said day to the contrary.

CLERK'S OFFICE, *circuit court of the United States,*
District of Louisiana.

I hereby certify the foregoing to be a true copy of the original record in this office.

Witness my hand and the seal of said court, at the city of New Orleans, this 26th day of February, 1847.

[SEAL.] F. N. HARALSON, *D'y Clerk.*

Marshal's return.

Received February 26th, 1847, and on the 27th day of the same month I served a copy of the within notice on the within named Wm. S. Parham, H. R. W. Hill, and James Dick, in person, at New Orleans, and made this return into court February 27th, 1847.

J. H. RINEHART,
D'y U. S. Marshal.

And afterwards, to wit, on the 5th day of March, 1847, the following subpœnas were issued from this office:

United States of America, the President of the United States, to the marshal of the district of Louisiana, greeting:

You are hereby commanded to summon William S. Parham to appear before the honorable the judges of the fifth judicial circuit of the United States of America, at a circuit court to be holden on the first Monday of April, 1847, then and there to answer a bill in chancery filed against him, wherein Andrew Erwin is complainant, and said Wm. S. Parham, Jas. Dick, and H. R. W. Hill are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States of America, this the fifth [SEAL.] day of March, in the year of our Lord one thousand eight hundred and forty-seven, and the 71st year of the American independence. F. N. HARALSON, *Dy. Clk.*

The defendant is to enter his appearance in the suit, in the clerk's office, on or before the first Monday of April, 1847, otherwise the bill may be taken pro confesso.

F. N. HARALSON, *Dy. Clk.*

Marshal's return.

Received March 5th, 1847, and on the 8th instant served copy of summons on W. S. Parham, in person, at New Orleans.

Returned March 9th, 1847.

CHAS. A. LABUZAN,
Dy. U. S marshal.

UNITED STATES OF AMERICA.

The President of the United States, to the marshal for the district of Louisiana, greeting:

You are hereby commanded to summon James Dick, to appear before the honorable the judges of the fifth judicial circuit of the United States of America, at a circuit to be holden on the first Monday of April, 1847, then and there to answer a bill in chancery filed against him, wherein Andrew Erwin is complainant, and said W. S. Parham, Jas. Dick, and H. R. W. Hill, are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States of America, this the fifth [SEAL.] day of March, in the year of our Lord one thousand eight hundred and forty-seven, and the 71st year of American independence. F. N. HARALSON, *Dy. Clk.*

The defendant is to enter his appearance in this suit, in the clerk's office, on or before the first Monday of April, 1847, otherwise the bill may be taken pro confesso.

F. N. HARALSON, *Dy. Clk.*

Marshal's return.

Received March 5th, 1847, and on the same day served copy of subpœna on Mr. James Dick, in person, at New Orleans.
Returned March 5th, 1847.

CHAS. A. LABUZAN,
Dy. U. S. marshal.

UNITED STATES OF AMERICA.

The President of the United States to the marshal for the district of Louisiana, greeting:

You are hereby commanded to summon H. R. W. Hill, to appear before the honorable the judges of the fifth judicial circuit of the United States of America, at a circuit court to be holden on the first Monday of April, 1847, then and there to answer a bill in chancery filed against him, wherein Andrew Erwin is complainant, and said Wm. S. Parham, Jas. Dick, and H. R. W. Hill are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States of America, this the fifth [SEAL.] day of March, in the year of our Lord one thousand eight hundred and forty-seven, and the 71st year of American independence.

F. N. HARALSON, *Dy. Clk.*

The defendant is to enter his appearance in the suit, in the clerk's office, on or before the first Monday of April, 1847, otherwise the bill may be taken pro confesso.

F. N. HARALSON, *Dy. Clk.*

Marshal's return.

Received March 5th, 1847, and on the same day served copy of subpœna on H. R. W. Hill, esq., in person at New Orleans.
Returned March 5th, 1847.

CHAS. A. LABUZAN,
D'y U. S. marshal.

And afterwards, to wit, on the 4th day of March, 1847, the following entry was made on the minutes of said court:

ANDREW ERWIN
vs.
WILLIAM S. PARHAM et als. } No. 1,579.

The defendants in this cause, William S. Parham, Henry R. W. Hill, and James Dick, having been notified on the 25th day of February last past, by the complainant, that this court would be moved by him on this day, for an injunction in this cause, and the appointment of a receiver of the property therein involved, said motion was taken up and argued before the court by Robt. Mott, esq., for said complainant, and S. S. Prentiss, esq., for the defendants; whereupon said motion was submitted to the court, who took the same under advisement.

And afterwards, to wit, on the 5th day of March, 1847, the following injunction was issued from the clerk's office of this court:

UNITED STATES OF AMERICA, *ss:*

The President of the United States, circuit court of the United States, fifth circuit and district of Louisiana.

ANDREW ERWIN
vs.
WILLIAM S. PARHAM et als. } 1579.

To William S. Parham, Henry R. W. Hill, and James Dick, your agents, attorneys, and counsellors, greeting:

Whereas, it hath been represented to us in our circuit court of the United States, for the fifth circuit and district of Louisiana, in chancery sitting, on behalf of Andrew Erwin, complainant, by his bill of complaint lately exhibited in said court against you, to be relieved touching certain matters in said bill contained.

Now, therefore, in consideration of the premises and of the allegations in said bill contained, you, the said William S. Parham, your agents, attorneys, and counsellors, are hereby commanded and strictly enjoined from selling, transferring, or otherwise disposing of, or removing beyond the jurisdiction of this court, all that property, both real and personal, by you acquired of one James M. Wall, on or about the 10th day of November, A. D. 1839, and which is particularly set forth and described in the complainant's bill herein, until the further order of our said court in the premises. And you, the said James Dick and Henry R. W. Hill, your agents, attorneys, and counsellors, are hereby commanded and strictly enjoined from using or disposing of any or either of thirteen several promissory notes, executed by said William S. Parham in favor of said Wall, for the sum of $\$20{,}369\frac{23}{100}$, each on or about the 15th day of November, A. D. 1839, bearing privilege and mortgage on the property acquired on said day by said Parham of said Wall, or from disposing of any of the proceeds of the crops of the plantation described in the complainant's bill now in your hands, or under your control, until the further order of our said court in the premises.

Herein fail not under the penalty of the law.

Witness the Hon. Roger B. Taney, chief justice of the Supreme Court of the United States, at New Orleans, this 5th day of [L. S.] March, A. D. 1847, and the 71st year of the American independence.

Attest— ED. RANDOLPH, *Clerk*,
By F. N. HARALSON, *D'y Clerk*.

Marshal's return.

Received, March 8th, 1847, and on the same day served copy of the within injunction on James Dick, H. R. W. Hill, and W. S. Parham, in person, at New Orleans.

Returned March 9, 1847.

CHAS. A. LABUZAN,
D'y U. S. marshal.

Afterwards, to wit, on the twenty-ninth day of March, eighteen hundred and forty-seven, William S. Parham, one of the defendants, herein filed his separate answer in the clerk's office, in the words and figures following, to wit:

In chancery.

ANDREW ERWIN
vs.
WILLIAM S. PARHAM, Dick & Hill.

In the circuit court of the U. S., for the 5th circuit.

The said Wm. S. Parham, one of the defendants, for separate answer to the complainant's bill, answers and says, in response to the several interrogatories he is called on to answer:

1st. To the best of his knowledge and belief said Wall was in possession of the two plantations and the number of negroes mentioned in the complainant's bill, set forth in said first interrogatory; that said Wall sold the said plantations and negroes to the said Parham on the 16th Nov., 1839, for the sum of $300,000 or thereabouts. Part of the consideration paid by the said Parham were the notes of the said Wall, held at that time by the said Parham, amounting to about $35,000, all then due. The other part of the $300,000 was secured by the 13 promissory notes, with mortgage on the property, payable at the times set forth in the bill.

2d. In response to the 2d interrogatory the said Parham says: That Dick & Hill, as he understands, have in their possession the said 13 notes; that they obtained possession of them by paying the said Wall a large amount of money, (the amount not known by this respondent,) and accepting for the said Wall, for other large sums of money, the amount of which this respondent cannot state, as he has at this time no means of fixing the amount; this respondent does not know the exact time at which the acceptances were made for the said Wall, or when the amounts of money were paid by the said Dick & Hill.

4th interrogatory. Dick & Hill have caused to be sold all the property in the possession of the said Parham liable to be sold under the said 13 notes, or liable for the payment of the said notes. The property was seized and sold under the note which fell due in the month of January, 1846, as he believes, and the property was purchased by said Dick & Hill. One of the plantations mentioned in the 1st interrogatory, called the "Milliken Place," or River Place, was sold about 2 years ago by H. P. Morancy, (the original vendor to the said Wall,) and purchased by the said Morancy for upwards of $40,000, the amount of the notes then held by Morancy against Wall, which notes were secured by mortgage on the said place.

5th. Dick & Hill have been the merchants of this respondent for the last 2 years, and have sold for him part of two crops of cotton, the proceeds of which have been applied to the payment of the debts of the said Wall, and of his own; the greater portion of the two crops have been sold by Dick & Hill; part of them by Ward, Jones & Co., and part by Jos. H. Moore. The whole amount of the proceeds of said two crops he cannot at this time state, as the accounts would have to be made out by his merchants; and he will have to resort to the same source for the application of the proceeds; if it is deemed necessary or ordered by the court, he will have the accounts made out and filed.

6th. The said Parham responds that he was entitled to a large credit on the notes given to Wall, upwards of $70,000, which credit he demanded of the said Wall to be imputed and applied to the discharge of the notes first falling due, which the said Wall failed to do, and which he said he could not do, from the fact that the said notes were in the possession of his creditors as collateral security. When the said Hill was negotiating for said 13 notes, he, Parham, told Hill of the said credits due him *on* which should be placed on the said 13 notes; but the said Parham further told the said Hill that he was willing to give up all the property that was then liable for the payment of the said 13 notes; provided, that when the property was sold under any of the notes, that they should all be entered satisfied, thus releasing the said Parham from any personal liability after giving up the property; otherwise he, Parham, would not suffer the property to be sold without a lawsuit. The said Hill accepted of this proposition; the agreement was not in writing; the notes as yet have not been marked "satisfied," owing to the suits against Dick & Hill brought by one Andrew Erwin.

7th. James M. Wall now resides at Jackson, in the State of Miss.; prior to his removal to Jackson he resided at Vicksburgh; and prior to his residing at Vicksburgh he resided with the said Parham about 12 months. The said Wall left Madison parish some time in the spring of 1846.

8th. This respondent resides in the parish of Madison; heretofore he has resided on the river Place, purchased by Morancy, having rented the same of him for the last two years; about the 20th December, 1846, he went to the Bayou Place, purchased by Dick and Hill, and, as

their agent, resides there; this respondent has no interest, directly or indirectly, in the property purchased by the said Hill and Dick.

9th. This respondent has no personal knowledge of the transfer of any interest held by the said Nixon, but he has understood from R. Garland, the attorney of Nixon, from Wall and from Hill, that *that* all the interest of the said Nixon, in the two notes mentioned, has been transferred to the said Dick and Hill, in consideration of the payment, by the said Dick and Hill, of a judgment which the said Nixon had against the said Wall, amounting to nearly $3,000; that the said Dick and Hill now hold said interest, and that he believes that the purchase of said interest, made by Dick and Hill, was made by them at the instance of Wall.

10th. Elizabeth Jane Parham is the mother of this respondent, and of the said Wall; her heirs at law are her children and her grandchildren, part of whom reside in Louisiana and part in Mississippi; she left a last will and testament, which has not been probated because of the expense of administering the property; H. W. Dunlap has possession of the will; Mrs. Parham died in Hinds county, Mississippi, but her residence at the time was at Milliken's Bend, Louisiana, where she made her will; the said Parham, since her death, has had the possession of all the property conveyed by him to her, and the entire control of all the revenues arising therefrom, all of which have been applied to the payment of his debt, and the payment of debts due by Wall to others; the said Mrs. Parham left by her last will to the said Wm. S. Parham all the property mentioned in the said bill, after the payment of the said 13 mortgage notes, and directed by her will that the said H. W. Dunlap and the said W. S. Parham should have the entire control of the property; H. W. Dunlap was appointed executor; Mrs. Parham died in the fall of 1842; the amount of the revenues of the property this respondent cannot state, until the accounts of the merchants who have had the disposition of the crops are made out, which will be made out if the court should order an account.

11th. This interrogatory is fully answered in the foregoing answers.

12th. The property was sold on the 2d day of January last past, as he believes; all the property liable for the payment of said notes was sold, and purchased by Dick and Hill, at a little over two-thirds of its appraisement; the amount of the appraisement not recollected; he presumes the sheriff's return states it correctly; the amount of the bid was paid to J. M. Wall, or credited to Wall, as he understood, Dick and Hill being the holders of the notes; this respondent understands that the property has been adjudicated to Dick and Hill, and that the deed has been made to them, but he has no personal knowledge of the fact.

13th. This respondent can only state, in answer to this question, that he was informed by said Wall and the said Hill that the said 13 notes were transferred to Dick and Hill, and that Dick and Hill were the owners of all said notes; this is all he knows of the matters required inquired of in this question.

14th. This respondent knows nothing of any claims the said Dick

and Hill may have on the said Wall, operating as a lien on said property or otherwise, he having no knowledge whatever of the indebtedness of Wall to Hill, or of Hill to Wall; but, so far as this respondent is concerned, he can state positively that he does not owe Dick and Hill anything which can give a lien privilege in law or equity on the said property.

This respondent having fully answered, prays to be hence dismissed with his costs in this behalf expended.

CIRCUIT COURT OF THE UNITED STATES,
District of Louisiana.

Personally appeared before me, the undersigned commissioner of the United States, for the district of Louisiana, Wm. S. Parham, the respondent herein, who being by me duly sworn, doth depose and say, that all the matters and facts set forth and charged in the foregoing answers, as of his own knowledge are true; and those set forth and charged as derived from the information of others, he believes to be true.

WILLIAM S. PARHAM.

Sworn to and subscribed before me, at New Orleans, this 29th day of March, 1847.

ED. RANDOLPH, *U. S. Com'r.*

And afterwards, to wit, in the April rules of said court, the following entry was made in the chancery order docket of said court, April, 1847:

ANDREW ERWIN
vs.
PARHAM et als.

Appeared this day at rules, James Dick and Henry R. W. Hill, two of the defendants in this cause, by their solicitors, Levi Pierce, and Prentiss, and Finney, esq'rs, and entered this their appearance in this cause.

And afterwards, to wit, at the May rules of said court, the following entry was made in the chancery order docket of said court, May, 1847:

ANDREW ERWIN
vs.
PARHAM et als.

Appeared this day at the rules, the defendants, James Dick and Henry R. W. Hill, by their solicitors, Prentiss & Finney & L. Pierce, esq'rs, and filed their joint and several answer of and to said complainant's bill herein.

Afterwards, to wit, on the third day of May, eighteen hundred and forty-seven, James Dick and Henry R. W. Hill, two of the defendants herein, filed their joint and several answers in the clerk's office, in the words and figures following, to wit:

ANDREW ERWIN
vs.
WILLIAM S. PARHAM et al. } In chancery.

In the circuit court of the U. S., for the district of Louisiana.

The joint and several answer of James Dick and Henry R. W. Hill, citizens of Louisiana, and commercial partners, doing business in New Orleans under the style and name of Dick & Hill, to the bill of complaint exhibited against them and others in this honorable court, by Andrew Erwin. These respondents, reserving all exceptions to the manifold errors, misstatements, &c., in said bill contained, &c., answering, say, that they know nothing, of their own knowledge, of the pretended judgment set up by complainant as having been obtained by one William M. Beal against James M. Wall, for the sum of $2,365 13, in the circuit court of the United States, for the southern district of Mississippi, at the May term thereof, 1842, nor of the issuance of an execution thereon, and the return of "nulla bona," but they require strict proof thereof. They know nothing, of their personal knowledge, of complainant's averments that said judgment was made executory in the parish of Madison, State of Louisiana, or that an order of seizure and sale issued thereon, or that a levy was made on Wall's interest in 13 promissory notes for $20,369 $\frac{23}{100}$ each, executed by W. S. Parham, in favor of said Wall, as set forth in complainant's bill. They admit none of said averments or allegations, but require strict proof of each and all of them.

Further answering, respondents deny all personal knowledge of the pretended sale alleged to have been made by the sheriff of Madison parish, of said James M. Wall's interest in and to said 13 promissory notes, and of the purchase thereof by said complainant, and they require strict proof of all complainant's allegations in relation to said pretended sale and purchase, either individually or in conjunction with Nixon, or any other person. Respondents do not admit any of the allegations of complainant's bill to be true which relate to the judgment pretended therein to have been obtained by said Wm. M. Beal, against said James M. Wall, or to the proceedings alleged to have been had under said judgments, by virtue of which complainant pretends to have acquired an interest in said 13 promissory notes, but require strict proof of all said allegations. Further answering respondents [state] that their co-defendant, William S. Parham, executed to James M. Wall, in part payment of a purchase of two plantations and slaves, thirteen promissory notes for $20,369 $\frac{23}{100}$ each, all dated 16th January, 1839, and payable to said Wall, or order, at the Citizen's Bank, New Orleans; the first on the first January, 1842, and the others annually thereafter. They further admit that said notes were secured by mortgage of the property sold as stated by complainant. Respondents also admit, that on the 31st January, 1846, said Wall was indebted to them in the sum of $35,975 $\frac{53}{100}$.

That said Wall gave his note therefor, and to secure the payment thereof on the same day by an authentic act passed before a notary

public in the city of New Orleans, pledged to respondents two of said promissory notes of said William S. Parham, to wit, those falling due on the 1st January, 184 , and 1st January, 184 ; but these respondents indignantly deny that they obtained said two notes corruptly or fraudulently, or with intent to cheat complainant, or any one else; such a charge is wholly false, and must have been *made* by complainant that it was so; at the time respondents received said notes, said Wall was really and truly indebted to them in the sum above stated; and the said two notes were received fairly and bona fide as security for the payment thereof; nor had respondents at the time the most remote intimation of any claim, real or pretended, held or set up by complainant against said Wall, nor had they any knowledge whatever, or notice, or information, of the pretended seizure and sale of said notes as set up by complainant. Respondents admit that they have since come into the possession of the remaining eleven notes of said thirteen promissory notes, and that they now hold and claim the same as their own property; they state that said eleven notes were transferred to them for a good and valuable consideration; that they required them bona fide, and that at the time of the transfer to them they had no knowledge or notice whatever of the pretended seizure and sale of said 11 notes, or of Wall's interest therein, as alleged in complainant's bill, nor had they even heard that complainant pretended to claim any interest therein; they deny all fraud, combination, &c., and assert their right and title in said notes to be good, both in law and equity.

Respondents further answering admit that they have caused the property mortgaged (except the Milliken place, which had been previously sold) to secure the payment of said notes to be seized and sold under and by virtue of a regular judicial proceeding, instituted by them upon one of said notes, which had already become due; that the sale was made by the sheriff of Madison parish, in obedience to a decree and judgment of a court of competent jurisdiction; that said sale was legal and valid; that all the formalties required by law were complied with, and respondents being the highest bidders became the purchasers, and said property was adjudicated and conveyed to them by the sheriff; which property they now have in their possession, and claim and hold as their own by virtue of said judicial sale; they deny that said purchase was made, as charged by complainant, for the use and benefit of Wall, but aver that it was made entirely for their own use and on their own account; and they further assert that said sale was fair and legal in all respects.

Respondents further state, that since said sale to them by the sheriff of Madison as aforesaid, they have been in the actual possession of said property, and still hold the same as their own property, lawfully purchased and acquired as aforesaid.

Respondents know nothing of their own knowledge in relation to the sale alleged by complainants to have been made by Wm. S. Parham to his mother, nor of any facts in relation thereto, but they require strict proof thereof.

Further answering respondents say, that the whole title and claim set up and pretended by complainants to said 13 notes of Parham, or to any portion of them, is false, fraudulent, and unfounded; that said complainant, as these respondents are informed, and believe, and so charge, has no real interest whatever in said claim, but the same belongs to one James Erwin, a citizen of the State of Louisiana, who has put forward the present complainant for the purpose of committing a fraud upon the jurisdiction of this honorable court, and of consummating his long cherished schemes of cheating and defrauding said James M. Wall, these respondents, and the other creditors of said Wall. Respondents charge that complainant's claim is upon its very face unconscionable, inequitable, and fraudulent. By complainant's own showing, he pretends to have purchased said 13 promissory notes for $20,369 $\frac{23}{100}$ each, amounting in the aggregate to upwards of $264,797, together with the full right of mortgage and privilege upon the plantation and slaves, for the trifling sum, and mere nominal sum, of $600. They aver, at the same time, that the annual revenues of said plantation and slaves is worth between $15,000 and $20,000. Such a claim to so large an amount of property for so inconsiderable and paltry a price, shocks the common sense of every man, and is, upon its face, conclusive proof that the pretended purchase was fraudulent and collusive. It is a claim which your respondents charge to be unclean in law, unconscionable in morals, and which a court of equity cannot, and will not, entertain, on the well settled principle, "that it will lend its aid only to those who present themselves before it with clean hands." But respondents are informed, believe, and so charge the fact to be, that said pretended order of seizure and sale, alleged to have been obtained on said pretended judgment of William M. Beal vs. James M. Wall, was an absolute nullity, and did not warrant the seizure and sale alleged to have been made thereunder; that said pretended judgment was not certified and authenticated so as to authorize the same to be made executory according to the laws of Louisiana, and that all proceedings had thereon are absolute nullities. Respondents are further informed, believe, and so charge the fact to be, that no actual seizure was ever made by the sheriff of Madison parish of said thirteen promissory notes, or of either of them, or of the mortgage to secure the same, or any of the property embraced in said mortgage; nor did said sheriff, either at the time of said pretended seizure, or of said pretended sale, nor before, nor ever after, have in his possession, custody, or control, any of said notes, evidences of debt, or mortgaged property; nor were said notes, or either of them, ever presented or submitted to appraisers to be appraised according to law, nor were they, or either of them, at the time of said pretended sale, exhibited or produced by said sheriff, or any one else.

Wherefore, respondents say they are advised, and so charge and insist, in complete bar to complainant's bill, that for want of a legal seizure, said complainant acquired, by said pretended sale, no right or interest either in law or equity to said notes or either of them, nor to

any of the mortgages or securities attached to them. Respondents further say, they are informed and believe, and so charge, that after said pretended seizure by the sheriff, said James M. Wall, the defendant in said pretended order of seizure and sale, was never notified or summoned, according to law, to appear and appoint an appraiser, by reason of which error, neglect, and failure of the sheriff, to give said Wall legal notice to appear and appoint an appraiser, respondents are advised, and so charge, said pretended sale was wholly null and void.

Respondents further say, that they are informed, believe, and so charge the fact to be, that if any appraisement did take place under said pretended seizure, it was made without any legal or valid appointment of appraisers, and without the knowledge or consent of said Wall; and, further, if such appraisement did take place, it was illegally made, and that neither of said notes, nor either of them, nor said mortgage, nor the property embraced therein, were produced, pointed out, or shown, to the appraisers, nor any schedule thereof furnished, nor were the appraisers informed or aware of the actual existence of said notes, or either of them, whether the same had been paid in whole or in part, or whose possession, or by whom claimed. By reason whereof respondents are advised by their counsel, and so charge, that no legal appraisement did, or could, take place, and that said pretended sale, for want of a legal appraisement preceding the same, was actually null and void. Respondents further say that, as they are informed and believe, it is not true as stated in complainant's bill, that upon a failure of a sale upon the first Saturday of March, the property seized was re-advertised for the first Saturday in May next thereafter. On the contrary, respondents are informed, and so charge the fact to be, that upon the failure of a sale on the first Saturday of March, the sheriff re-advertised the sale to take place on the first Saturday of April next thereafter, on a credit of twelve months, and that on said day the sale so advertised was postponed by order of the plaintiff, and without the consent of defendant, Wall, and was then a second time advertised for the first Saturday of May, which postponement by plaintiff, without the consent of defendant, as respondents are advised, was illegal, and said pretended sale, on first Saturday of May, was wholly void.

Respondents further say, that they are informed, believe, and from such information charge, that no legal advertisement was made of the property so pretended to have been seized under said order of seizure and sale, nor were legal notices given to the parties, and that the whole proceedings were in other respects illegal and erroneous.

Respondents further state that they are informed, believe, and from such information so charge, that at such pretended sale on the 1st Saturday of May, no specific property or thing was offered for sale, nor was there any particular description given or called out by the sheriff of the character, location, condition, or existence of the pretended subject matter of sale; and that the attorney of the said Wm. M. Beal, combining and confederating with the attorney, a certain Sugdan, and Nixon, to prevent a fair sale, did agree not to bid against each other, but that one should bid for both; and in consequence thereof, and also

in consequence of the want of an exhibition of the property pretended to be about to be sold by [the] sheriff, and by reason also of the uncertainty as to the real existence of the pretended indebtedness set up for sale, there being exhibited no evidence thereof, nor any proof of its actual existence, there were no actual bids made except those of the plaintiff's attorney, who pretended falsely to bid as the agent of Andrew Erwin, the complainant, when in fact said attorney had at the time no authority whatever from said complainant to bid in his name, as respondents verily believe; and so said property was adjudicated under said pretended, collusive, and void sale, not only to the highest, but also to the lowest bidder.

And these respondents set up and urge in bar of complainant's claim all the above errors, illegalities, frauds, and nullities, by reason of which they insist complainant has derived by said pretended sale no right, interest, or just claim whatever to said 13 notes, or either of them, or any part thereof, or any of the liens, mortgages, or privileges attached thereto. Respondents, in justice to themselves, deem it a duty to state (though they deny complainant's right to demand) the motive and consideration of their purchase of said notes. The first two came into their possession, as they have above stated, by virtue of an authentic act of pledge, the consideration of which was the indebtedness of said Wall to them at the time in the sum of $\$35{,}975\frac{5}{100}$, which debt still remains unpaid, except through the purchase made by them of the plantation and slaves, as above mentioned, and of said notes as hereinafter mentioned; and these respondents again aver that they received the pledge and transfer of said notes bona fide, and without any knowledge whatever on their part, or any notice, direct or indirect, of said pretended seizure under Beal's judgment. They also aver that they received the transfer, and obtained the possession of the other eleven notes without any knowledge or notice of said claim of complainants thereto, or of said pretended seizure and sale thereof, of all of which they were at and before the time of said transfer, wholly and entirely ignorant. The considerations and circumstances under which they acquired the transfer and ownership of the last mentioned notes, were these, said James M. Wall was largely indebted as well as to respondents, the only means he had of paying his debts consisted in these Parham's notes, many of which were pledged to various creditors of Wall; the value of said notes depended solely upon the property mortgaged to secure them. Parham was entitled to a large credit upon them, and a majority of them not matured, so that it was difficult, if not impossible, to use them in liquidation of the various debts due by said Wall. In this situation, respondents being already his principal creditor, said Wall being then a citizen and resident of the State of Mississippi, applied to respondents to purchase the Parham notes, together with the two already pledged, and to pay out of the price thereof their own debt, and such other debts of said Wall as he should direct, to the amount of the price agreed on.

Respondents being convinced that such an arrangement would be for the advantage of the creditors of said Wall, as well as to enable them to realize their own claims, agreed to purchase said notes for a

price equal to the fair value of the mortgaged property, deducting all previous incumbrances thereon; and, accordingly, on the 4th day of November, 1846, at Vicksburg, in the State of Mississippi, the contract between said Wall and respondents was made, and said notes were transferred to respondents for the consideration agreed on as herein before stated.

In answer to such of complainant's interrogatories addressed to them as they are informed and advised they are bound to answer unto respondents, say to interrogatory 3d that on 31st day of January, 1846, as already stated, said Wall was justly indebted to them in the sum of $\$35{,}975\frac{53}{100}$, which indebtedness continued until it was liquidated by the respondents' purchase from said Wall of all said notes as aforesaid.

To interrogatory 4th respondents answer, that they have caused the property, sold by Wall to Parham, to be seized and sold under one of said notes of Parham, viz., the note due January, 1846; said sale was made on 2d day of January, 1847, and included the Walnut Bayou place, and all the slaves subject to the mortgages given by said Parham to secure said notes; respondents were the purchasers.

To the 5th interrogatory respondents decline answering, because the same is irrelevant and impertinent, for which reasons they except and demur to 5th interrogatory, and ask the judgment of this honorable court whether they are bound to answer the same, or to render to complainant an account of all their business transactions with said Wall.

To the 6th interrogatory respondents answer, that they have not, as yet, discharged the said Wm. S. Parham from his personal liability on said 13 notes, but intend so doing as soon as the present suit be terminated. They purchased said 13 notes with a full knowledge that said Wm. S. Parham had but little property beyond that liable by mortgage for the payment of said 13 notes, with the belief also that he was entitled to a large credit on said notes; under these circumstances and through feelings of friendship, respondents did say to him that they would have the whole of said notes marked "satisfied," after the sale and purchase by them of the said plantation and slaves. This agreement was not in writing, nor either of the notes yet marked "satisfied," or was Parham released from the payment of either of them.

To the 7th interrogatory respondents answer, that they are informed and believe said James M. Wall resides in Jackson, in the State of Mississippi; previous to his removal there he lived in Vicksburg some 12 months.

To the 8th interrogatory respondents answer, that Wm. S. Parham resided on the plantation in Madison parish previous to their purchase of the same; since said purchase by permission of respondents, and as their agent, he has resided a part of his time on said place.

To the 10th interrogatory. That as to so much of the question as relates to Mrs. Elizabeth Parham, her death, leaving a will, &c., they of their own knowledge know nothing. The overseer of respondents, whose name is Wm. H. Hawkins, now resides on said plantation, and holds possession of it as the agent of respondents. He has resided

there since the purchase made by respondents. Respondents do not pretend to say who had the legal title at the death of the said Mrs. Parham to said plantation and property, but they believe they are now the legal owners and possessors thereof. They acquired their title as already stated by purchase at a judicial sale, since which they have had possession of the same as owners, and the full control of its revenues.

Previous to their purchase, Wm. S. Parham had the possession and control thereof, and of the entire revenues thereof. To the remainder of the question they except and demur as being irrelevant and impertinent, and decline further answer thereto.

To the 12th interrogatory respondents answer, said property was sold on the 2d day of January, 1847, by the sheriff of the parish of Madison, and the same was adjudicated to the respondents, who became the purchasers for the sum of $50,000, more than ⅔ of its appraised value, which sum was appropriated as follows, the amount of the debt due us, and the balance in paying debts of James M. Wall.

To the 13th interrogatory respondents answer, that at the time of said sale they did claim, and as they believe, possess, by virtue of their contract with said Wall as aforesaid, a full and complete right, both in law and in equity, to the whole of the amount due upon said Parham's notes.

To 14th interrogatory respondents answer, that they have no other claim against said Wall, and none against said Parham, except what arises out of their ownership of said 13 notes, as already stated in their previous answers. And now having fully answered, respondents pray that complainant's bill be dismissed, and they be discharged, with their costs in this behalf expended.

L. PIERCE & PRENTISS & FINNEY,
Solicitors for DICK & HILL & WM. S. PARHAM.

Circuit court of the United States, fifth circuit and district of Lou'a.

Personally came and appeared before me, the undersigned commissioner of the United States, in and for the district of Louisiana, at New Orleans, in said district, this 3d day of May, A. D. 1847, Henry R. W. Hill and James Dick, the respondents in the within and foregoing answer, who being by me first duly sworn, do depose and say, that the matter and facts by them charged and averred in this their joint answer, as charged upon their own knowledge, information, and belief, are true; and those charged as derived from the information and knowledge of others, they believe to be true.

H. R. W. HILL,
JAMES DICK.

Sworn to and subscribed before me, at New Orleans, this 3d May, 1847.

T. N. HARALSON, [SEAL.]
Comm'r U. S., dist. La.

And afterwards, to wit, on the 3d day of May, 1847, came the complainant, by his solicitor, and filed his exceptions to the defendant Parham's answer, in the words and figures following, to wit:

U. S. circuit court, 5th circuit, district of Louisiana. In chancery.

ANDREW ERWIN
vs.
WILLIAM S. PARHAM, JAMES DICK, & HENRY R. W. HILL.

Exceptions taken by the said complainant to the answer put in by the defendant, William S. Parham, to the said complainant's bill of complaint:

1st exception. For that the said defendant, William S. Parham, hath not, to the best and utmost of his knowledge, remembrance, information, and belief, answered and set forth what particular portion or parcel of said property, real or personal, or both, (as mentioned in the 1st interrogatory in complainant's bill of complaint,) have been seized and sold as particularly interrogated in the 4th interrogatory in said bill.

2d exception. For that the said defendant, William S. Parham, hath not, to the best and utmost of his knowledge, remembrance, information, and belief, answered and set forth what sum of money has been realized or received from the sale of said crops each year, and what disposition has been made of said money so received, as particularly interrogated in the 5th interrogatory in said bill of complaint.

3d exception. For that the said defendant, William S. Parham, hath not, to the best and utmost of his knowledge, remembrance, information, and belief, answered and set forth who are the heirs at law of said Elizabeth Jane Parham, and where do they reside; who has had the management and control of said plantations, and the revenues of them, or either of them, since the 1st day of August, 1842; and who now has such management and control; and what such revenues have amounted to per annum since said first day of August, 1842; and to whom such revenues have been paid, or on whose account, or for what purpose, as particularly interrogated in the 10th interrogatory.

In all which particulars the answer of said defendant, William S. Parham, is, as the said complainant is advised, imperfect, insufficient, and evasive; and the said complainant, therefore, excepts thereto, and prays that the said defendant, William S. Parham, may put in a further and better answer to the said bill of complaint.

ROB'T MOTT,
Solicitor and of counsel for complainants.

And afterwards, to wit, on the 7th June, 1847, came the complainant, by his solicitor, and filed his exceptions to the answer of the defendants, Dick & Hill, in the words and figures following, to wit:

U. S. circuit court, 5th circuit, district of Louisiana, in chancery.

ANDREW ERWIN
vs.
WILLIAM S. PARHAM, James Dick, and Henry R. W. Hill.

Exceptions taken by the said complainant to the answer put in by the defendants, James Dick and Henry R. W. Hill, jointly and severally, to the said complainant's bill of complaint.

1st exception. For that the said defendants, Dick and Hill, nor either of them, have or has, to the best of their or his knowledge, remembrance, information, and belief, answered and set forth whether the said James M. Wall is, or at any time since the sixteenth day of November, 1839, has been, justly indebted to said Dick and Hill; if yea, to what amount; how, when, and under what particular circumstances was such indebtedness contracted; if any payments have been made of such indebtedness, what amount, when, and how, as propounded in the 3d interrogatory in said bill of complaint.

2d exception. For that the said defendants, Dick and Hill, nor either of them, have or has, to the best and utmost of their or either of their knowledge, remembrance, information, and belief, answered and set forth whether the said Dick and Hill have or not, for some years past, been the merchants of said James M. Wall and William S. Parham, or either of them; and if yea, for how many years have they received the crops made on the plantations mentioned in the first interrogatory; and what sum of money has been realized or received from the sale of crops, each year; and what disposition has been made of said money so received, as propounded in the 5th interrogatory in said bill. And the said complainant submits to this honorable court whether the said defendants, Dick and Hill, and each of them, are and is not bound to answer the said fifth interrogatory fully and particularly.

3d exception. For that the said defendants, Dick and Hill, have not, nor has either of them, to the best and utmost of their or either of their knowledge, remembrance, information, and belief, answered and set forth where was the last domicil of the said James M. Wall, previous to his going to Vicksburg to reside, as propounded in the latter clause of the 7th interrogatory in said bill of complaint.

4th exception. For that the said defendants, Dick and Hill, have not, nor has either of them, to the best and utmost of their or either of their knowledge, remembrance, information, and belief, answered and set forth who has had the management and control of said plantations, and the revenues of them, or either of them, since the 1st day of August, 1842; and what such revenues have amounted to per annum since said first day of August, 1842; and to whom has the money been paid; on what or whose account, or for what purpose, as propounded in the 10th interrogatory in said bill of complaint. And the said complainant submits to this honorable court whether the said defendants, Dick and

Hill, are not bound to answer fully and particularly, and each of them, the questions propounded in said 10th interrogatory.

5th exception. For that the said defendants, Dick and Hill, have not, nor has either of them, to the best and utmost of their knowledge, information and belief, answered and set forth whether the said property conveyed by James M. Wall to William S. Parham, on the 16th day of November, 1839, or what portion or parcel thereof, was sold by the sheriff of the parish of Madison; to whom was the purchase money for said property paid; and how was said sum applied; or on what indebtedness, as propounded in the 12th interrogatory in said bill of complaint.

6th exception. For that the said defendants, Dick and Hill, have not, nor have either of them, to the best and utmost of their, or either of their, knowledge, remembrance, information, and belief, answered and set forth what is the nature and extent of their, or either of their, right, title, or interest, (in and to the said notes made by the said Parham to said ;) when was it acquired, how, and upon what consideration, and under what circumstances, as particularly interrogated in the 13th interrogatory in said bill of complaint.

In all which particulars the answers of the said defendants, Dick and Hill, is, as the said complainant is advised, imperfect, insufficient, and evasive; and the said complainant therefore excepts thereto, and prays that the said defendants, Dick and Hill, may put in a further and a better answer to the said bill of complaint.

ROBT. MOTT,
Solicitor and of counsel for complainant.

U. S. CIRCUIT COURT,
Fifth circuit and district of Louisiana.

ANDREW ERWIN
vs.
WM. S. PARHAM, JAMES DICK, and HENRY R. W. HILL. } In chancery.

Exceptions taken by the complainant to the answer of the defendants, Dick & Hill, to the bill of complaint in this cause, for scandal and impertinence.

1st Exception. For that the said answer is impertinent, from and including the word "that" in the eighth line of the first page, down to and including the word "them," at the end of the twenty-fifth line on the same page.

2d Exception. For that the said answer is impertinent, from and including the word "respondents" in the — line of the — page, down to and including the word "allegations," on the — page.

3d Exception. For that the said answer is impertinent, from and including the word "further," on the fourth page, to and including the word "thereto," on 7th page.

4th Exception. For that the said answer is scandalous, from and including the word "such," on the — line on page 2, to and including the word "so," on the — line, same page.

5th Exception. For that said answer is scandalous, from and including the word "that," on the — line, page 4, to and including the word hands on the — line, same page.

In all which particulars this exceptant excepts to said answer of said defendants, James Dick and Henry R. W. Hill, to the said bill of complaint as scandalous or impertinent, and he humbly insists that the said [words] ought to be expunged from said answer.

ROBERT MOTT,
Solicitor and of counsel for complainant.

And afterwards, to wit, on the 6th day of December, 1847, the following entry was made on the chancery order docket of said court:

ANDREW ERWIN
vs.
PARHAM, DICK, and HILL.

By consent of parties, the exceptions to answers in this cause are set down for hearing, and are to be argued on the next rule day.

Afterwards, to wit, on the 20th day of July, (1847,) eighteen hundred and forty-seven, parties, by their solicitors, filed in the clerk's office the following stipulation, viz:

ANDREW ERWIN
vs.
WM. S. PARHAM
vs.
DICK and HILL.

In the circuit court of the United States, 5th circuit, district of Louisiana.

It is hereby agreed that commissions may issue at any time for the taking of depositions of witnesses of either party to the cause, upon interrogatories to be duly served upon the opposing counsel, the commissions to be executed before justices of the peace in Louisiana; the testimony to be read at the hearing of the cause, notwithstanding it being taken before the cause is at issue; subject, however, to all legal exceptions to the competency of the evidence.

ROBERT MOTT,
Counsel for complainants.
PRENTISS & FINNEY,
Respondents.

NEW ORLEANS, 13*th July*, 1847.

Replication to answer of Parham.

U. S. circuit court, 5th circuit, district of Louisiana. In chancery.

ANDREW ERWIN
vs.
WILLIAM S. PARHAM and others.

Replication to answer of Parham.

This repliant, saving and reserving to himself, now and at all times hereafter, all and all manner of benefit and advantage of exception

which may be had or taken to the manifold insufficiencies of the said answer of the said defendant, William S. Parham, for replication thereunto says, that he will aver, maintain, from his bill of complaint, to be true, certain, and sufficient in law to be answered unto; and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by this repliant; without this, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, and not herein and hereby well and sufficiently replied unto, confessed and avoided, traversed or denied, is true; all which matters and things this repliant is and will be ready to aver, maintain, and prove, as this honorable court shall direct, and humbly prays as in and by his said bill he has already prayed.

ROB'T MOTT,
Solicitor for complainant.

Afterwards, to wit, on the fifth day of February, A. D. eighteen hundred and forty-eight, came William S. Parham and Messrs. Dick & Hill, and filed their demurrer to bill of complaint of Andrew Erwin, which reads in the words and figures following, to wit:

ANDREW ERWIN
vs.
PARHAM, Dick & Hill.

In chancery, in the circuit court of the United States, for the district of Louisiana.

The demurrer of Wm. S. Parham & Dick & Hill, to the bill of complaint of Andrew Erwin.

These defendants, by protestation, *not conferring*, not confessing any of the matters and things in said complainant's bill to be true, in manner and form as the same are therein set forth and alleged, do demur to said bill, and for cause of demurrer show, that said complainant has not, by his said bill, made such a case as entitles him, in a court of equity, to any discovery from these defendants respectively, or from any or either of them, or any relief against them as to the matters contained in said bill, or against either of them, and that any discovery which can be made by these defendants, or any or either of them, touching the matters complained of in said bill, or any or either of them, cannot be of any avail to said complainants for any of the purposes for which a discovery is sought against these defendants by the said bill, nor entitle said complainant to any relief in this court. Nor does said bill contain sufficient matter of equity whereupon this honorable court can ground any decree in favor of the said complainant against these defendants, or either of them, or give said complainant any relief against them, or either of them; and therefor, and for other defects and other causes of demurrer appearing in complainant's bill, these defendants do demur thereto, and pray the judgment of this honorable court

whether they shall be compelled to make any answer to said bill, and they further pray to be herein dismissed with their reasonable costs.

PRENTISS & FINNEY,
Defend'ts sol'rs, &c., &c.

It is agreed between the solicitors for complainant and defendant, that the answers filed in this case be withdrawn, and the foregoing demurrer filed to complainant's bill; complainant's solicitor waiving defendant's affidavit and certificate of counsel thereto.

It is further agreed that the cause be considered as set down for argument on the demurrer, and the same is now submitted on the bill and demurrer; by consent of the solicitors aforesaid, this agreement is to be entered of record.

This stipulation is not to be so construed as to prevent the complainant amending his bill of complaint, should he be advised it is necessary, within such time, or on such terms, as the rules and practice of this court prescribe, or as the court may see fit to direct.

ROB'T MOTT,
Compl's solicitor.
PRENTISS & FINNEY,
For def't.
P. C. WRIGHT,
Of counsel far complainant.

Order of submission.

And afterwards, to wit, on the fifth day of February, A. D. 1848, the following order was entered upon the minutes, which reads in the words and figures following, to wit:

ANDREW ERWIN
vs.
PARHAM, Dick and Hill.

On motion of defendant's counsel, and on filing stipulation, it is ordered, that the answers filed in this case be withdrawn, and the demurrer to complainant's bill be filed without requiring an affidavit and certificate to be attached thereto. And thereupon the cause is set for argument on said demurrer, and the same was submitted on the bill and demurrer. This order not to affect the complainant's right to amend his bill, should it be deemed necessary, pursuant to the rules of practice, or as the court may direct.

And afterwards, to wit, on the 8th day of February, A. D. 1848, the following judgment was rendered and recorded upon the docket, which reads in the words and figures following, to wit:

ANDREW ERWIN
vs.
WILLIAM S. PARHAM et als.

This cause came on to be heard at this term, and was argued by

3090.

counsel; and thereupon, upon consideration thereof, it was ordered, adjudged, and decreed, that the injunction granted in this case be dissolved, and that the complainant's bill be, and the same is hereby, dismissed with costs.

Decree rendered 8th February, A. D. 1848.

Signed 10th February, 1848.

J. McKINLEY.

And afterwards, to wit, on the 27th day of March, A. D. 1849, this order was entered upon the minutes, which reads in the words and figures following, to wit:

ANDREW ERWIN
vs.
WILLIAM S. PARHAM et al.

On motion of J. C. Wright, esq., of counsel for plaintiff, and on filing his petition, representing that said plaintiff felt aggrieved at the decree rendered herein on the 8th of February, 1848, and prayed for an appeal returnable to the next term of the Supreme Court of the United States. It is therefore ordered, that an appeal be, and the same is hereby, allowed to said plaintiff, returnable to the next term of the Supreme Court of the United States, on his furnishing his bond with R. J. Ward as surety, in the penal sum of five hundred dollars, conditioned according to law.

And afterwards, to wit, on the 27th day of March, 1849, came the complainant, by his solicitors, and filed the following petition in the clerk's office of said court:

U. S. circuit court, 5th circuit, district of Louisiana. In chancery.

ANDREW ERWIN
vs.
WILLIAM S. PARHAM and others.

Petition for appeal.

To the honorable the judges of the U. S. circuit court, for the 5th circuit, within and for the district of Louisiana.

The petition of Andrew Erwin, complainant in above entitled suit, respectfully showeth, that a final decree in this honorable court has been rendered in favor of the above named defendants, against the above named complainant, on a demurrer to the bill of complaint filed in said cause.

That your petitioner is advised that there is manifest error in said decree, and that your petitioner is aggrieved thereby. Wherefore he prays an appeal to the Supreme Court of the United States from the said decree of this honorable court, and herewith tenders the bond

of petitioner, with Robt. J. Ward as surety, in the sum of five hundred dollars, as security for costs according to law.

ROBERT MOTT,
P. C. WRIGHT,
Solicitors for petitioner.

Let an appeal be granted according to the prayer of the within petition.

New Orleans, March 27th, 1849.

THEO. H. McCALEB,
U. S. Judge.

Appeal Bond.

Know all men by these presents that we, Andrew Erwin, as principal, and R. J. Ward, as security, are held and firmly bound, jointly and severally, unto William S. Parham, James Dick, and Henry R. W. Hill, in the sum of five hundred dollars, lawful money of the United States of America, to be paid to the said William S. Parham, James Dick, and Henry R. W. Hill, their heirs, executors, administrators, and assigns; for which payment, well and truly to be made, we bind ourselves, and each of us by himself, and each of our heirs, executors, and administrators, firmly by these presents. Sealed with our seals, and dated the day of February, in the year of our Lord eighteen hundred and forty-nine.

Whereas Andrew Erwin has this day presented a petition to the honorable the circuit court of the United States, for the fifth circuit, holding sessions in and for the district of Louisiana, praying for an appeal in the case of Andrew Erwin *vs.* Wm. S. Parham et als., decided against him at a former term of this court.

Now, the condition of the above obligation is that we, the above bounden and will well and truly pay to the said William S. Parham, James Dick, and Henry R. W. Hill, the defendants in said suit, all such damages as they may recover against us in case it should be decided that the said decree was wrongfully obtained.

A. ERWIN, [SEAL.]
R. J. WARD. [SEAL.]

Signed, sealed, and delivered in the presence of—
ROB. MOTT.

(Endorsed) Approved: THEO. H. McCALEB,
U. S. Judge.

Clerk's office, circuit court of the United States, fifth circuit, eastern district of Louisiana.

I certify the foregoing one hundred and thirty pages to contain a full, true, and complete transcript of the record and proceedings, together with all the evidence adduced on the trial of the case of Andrew

3091.

Erwin *vs.* W. S. Parham et als., No. 1579 of the docket of this court, so far as the same now remain of record on file in this court.

Witness my hand and seal, at New Orleans, this 10th day of April, 1850.

J. W. GURLEY, *Clerk.*

I, Theo. H. McCaleb, United States judge for the eastern district of Louisiana, do hereby certify, that J. W. Gurley, whose name is signed to the above certificate, as clerk of the circuit court of the United States, for the eastern district of Louisiana, was at the time of signing said certificate, and is now, the clerk of said court; that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

Given under my hand and seal, at New Orleans, this 10th April, 1850.

THEO. H. McCALEB. [SEAL.]